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LAW/

P.L. 2008, CHAPTER 52, *approved August 5, 2008*
Senate, No. 1390 (*Second Reprint*)

1 AN ACT concerning sunken or abandoned vessels, amending and
2 supplementing P.L.1975, c.369, and amending various sections
3 of statutory law.

4
5 **BE IT ENACTED** by the Senate and General Assembly of the State
6 of New Jersey:

7
8 1. Section 4 of P.L.1962, c.73 (C.12:7-34.39) is amended to
9 read as follows:

10 4. (a) The owner of a vessel required to be numbered in this
11 State shall file an application with the **[division]** New Jersey Motor
12 Vehicle Commission on forms approved by it. The application
13 shall be signed by the owner and shall be accompanied by the fee
14 prescribed by this act for such vessel. Upon receipt of the
15 application in the approved form and the prescribed fee, the
16 **[division]** New Jersey Motor Vehicle Commission shall enter the
17 same upon the records of its office and issue to the applicant a
18 pocket-size, laminated or otherwise water resistant certificate of
19 number, which shall state the name and address of the owner, a
20 description of the vessel, its use, and the number assigned.

21 (b) Except as provided herein, the certificate of number shall be
22 available at all times for inspection on the vessel for which issued
23 whenever such vessel is in operation. The certificate of number for
24 vessels less than 26 feet in length and leased or rented to another for
25 the latter's noncommercial use of less than 24 hours may be retained
26 on shore by the vessel's owner or his representative at the place
27 from which the vessel departs or returns to the possession of the
28 owner or his representative; provided such substitute as the
29 **[director]** New Jersey Motor Vehicle Commission may prescribe
30 by regulation is carried on board.

31 (c) The number assigned to a vessel shall be displayed on each
32 side of the bow thereof, as prescribed by regulations of the
33 **[division]** New Jersey Motor Vehicle Commission, using letters
34 and numerals not less than three inches in height; except that this
35 provision shall not apply to a one-design class racing sailboat,
36 without power installed either inboard or outboard, which is

EXPLANATION – Matter enclosed in bold-faced brackets **[thus]** in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹Senate STR committee amendments adopted March 10, 2008.

²Assembly ATR committee amendments adopted May 12, 2008.

1 required to be numbered under section 3 of P.L.1962, c.73 (C.12:7-
2 34.38). No other number shall be displayed on the bow.

3 (d) No application for a vessel number shall be approved if the
4 applicant or owner has been ¹【convicted of a violation of】 found to
5 have violated¹ section 3 of P.L.1975, c.369 (C.12:7C-9) or
6 subsection b. of section 10 of P.L.1975, c.369 (C.12:7C-16), until
7 the New Jersey Motor Vehicle Commission has been notified by the
8 appropriate municipality or harbor commission that all outstanding
9 charges for vessel removal, storage, and destruction costs have been
10 satisfied.

11 (cf: P.L.1995, c.401, s.21)

12

13 2. Section 3 of P.L.1995, c.401 (C.12:7-72) is amended to read
14 as follows:

15 3. a. (1) Upon proper application therefor, the **【director】** Chief
16 Administrator of the New Jersey Motor Vehicle Commission shall
17 license a person to operate a power vessel on the nontidal waters of
18 this State. A person shall not make any misstatement of fact in an
19 application for a power vessel operator's license.

20 (2) The New Jersey Motor Vehicle Commission shall not issue
21 or renew the license of any person who has been found ¹【guilty of
22 an offense pursuant to】 to have violated section 3 of P.L.1975,
23 c.369 (C.12:7C-9) and subsection b. of¹ section 10 of P.L.1975,
24 c.369 (C.12:7C-16), until the ¹【commission】 New Jersey Motor
25 Vehicle Commission¹ has been notified by the appropriate
26 municipality or harbor commission that all outstanding charges for
27 vessel removal, storage, and destruction costs have been satisfied.

28 b. Except as provided pursuant to subsections c. and g. of this
29 section:

30 (1) A person shall not operate a power vessel on the nontidal
31 waters of this State without being licensed by the **【director】** ¹【chief
32 administrator】 Chief Administrator of the New Jersey Motor
33 Vehicle Commission¹; and

34 (2) A person under 16 years of age shall not be licensed to
35 operate a power vessel on the nontidal waters of this State.

36 c. A person is not required to be licensed pursuant to
37 subsection b. of this section when operating a power vessel:

38 (1) powered solely by a motor of less than one horsepower or an
39 electric motor of 12 volts or less;

40 (2) that is 12 feet or greater in length and powered by a motor,
41 or combination of motors, of less than 10 horsepower;

42 (3) while actually competing in an authorized race held under
43 the auspices of a duly incorporated yacht club or racing association
44 in accordance with rules and regulations prescribed by the Division
45 of State Police in the Department of Law and Public Safety and
46 pursuant to a permit duly issued by that division;

1 (4) if the person is an out-of-State resident and has written
2 proof, while operating the power vessel, of successful completion of
3 a boat safety course substantially similar to the boat safety course
4 administered pursuant to section 1 of P.L.1987, c.453 (C.12:7-60).

5 d. Except as provided pursuant to subsection c. of this section,
6 a person shall have in his possession a proper license at all times
7 when operating a power vessel on nontidal waters and shall exhibit
8 the license to any law enforcement officer upon request. Failure of
9 a person to exhibit such license upon request shall be presumptive
10 evidence that the person is not a licensed operator.

11 e. A person who violates the provisions of subsection b. of this
12 section shall be subject to a fine of not more than \$500 or to a term
13 of imprisonment not to exceed 60 days, or both, except that:

14 (1) A person who has never been licensed to operate a power
15 vessel on the nontidal waters of this State or any other jurisdiction
16 shall be subject to a fine of not less than \$200 and, in addition, the
17 court shall issue an order to the ~~Director of the Division of Motor~~
18 ~~Vehicles~~ Chief Administrator of the New Jersey Motor Vehicle
19 Commission requiring the ~~director~~ ¹~~chief administrator~~ ²~~Chief~~
20 ~~Administrator of the New Jersey Motor Vehicle Commission~~¹
21 chief administrator² to refuse to issue a license to operate a power
22 vessel on the nontidal waters of this State to that person for a period
23 of not less than 180 days; and

24 (2) A person who can exhibit to the court before which the
25 person is summoned to answer to the charge a valid operator's
26 license issued to that person which was valid on the day that person
27 was charged shall be subject to a fine of not more than \$100, in
28 addition to any reasonable court costs the court may impose.
29 Notwithstanding the provisions of this subsection, the court may, in
30 its discretion, dismiss a charge regarding the failure to exhibit an
31 operator's license brought pursuant to the provisions of this section.

32 f. The penalties provided for pursuant to subsection e. of this
33 section shall not be applicable in cases where failure to have actual
34 possession of the operator's license is due to an administrative or
35 technical error by the ~~Division of Motor Vehicles~~ New Jersey
36 Motor Vehicle Commission.

37 g. A person who is under 16 years of age and was issued an
38 operator's license pursuant to section 7 of P.L.1954, c.236 (C.12:7-
39 34.7) before July 1, 1996 may operate a power vessel equipped with
40 an outboard motor until the expiration date of that license.

41 (cf: P.L.1997, c.152, s.1)

42
43 3. Section 13 of P.L.1995, c.401 (C.12:7-82) is amended to
44 read as follows:

45 13. a. A court may revoke or suspend the privilege of a person
46 to operate a power vessel if that person has been convicted of
47 homicide in connection with the operation of a motor vehicle or of

1 operating a motor vehicle while under the influence of intoxicating
2 liquor or a narcotic, hallucinogenic or habit producing drug.

3 b. A court may revoke or suspend the privilege of a person to
4 operate a power vessel if that person has been charged with a
5 homicide in connection with the operation of a motor vehicle or of
6 operating a vessel or motor vehicle while under the influence of
7 intoxicating liquor or a narcotic, hallucinogenic or habit producing
8 drug, pending disposition of that charge, or for any other violation
9 of any of the provisions of chapter 7 of Title 12 of the Revised
10 Statutes or of any rule or regulation prescribed thereunder by the
11 **[director]** ¹**[chief administrator]** Chief Administrator of the New
12 Jersey Motor Vehicle Commission¹ or the commission.

13 c. A court shall revoke or suspend the privilege of a person to
14 operate a power vessel if that person has been charged with or
15 convicted of homicide in connection with the operation of a vessel.

16 d. When a person's privilege to operate a power vessel is
17 revoked or suspended, that person shall have an opportunity to be
18 heard. Attendance of witnesses to such hearing may be compelled
19 by subpoena.

20 e. Failure of the licensee or any other person possessing the
21 license card to deliver the same to the suspending or revoking court,
22 or the **[director]** ¹**[chief administrator]** Chief Administrator of the
23 New Jersey Motor Vehicle Commission¹ if so ordered, shall
24 constitute a violation. A court that suspends or revokes a license
25 shall promptly place the license card in the custody of the
26 **[division]** New Jersey Motor Vehicle Commission, except when
27 the **[division]** ¹**[commission]** New Jersey Motor Vehicle
28 Commission¹ shall otherwise direct.

29 f. The **[division]** New Jersey Motor Vehicle Commission shall
30 have the exclusive power to restore a person's privilege to operate a
31 power vessel and may restore that privilege after the person pays to
32 the **[director]** ¹**[chief administrator]** Chief Administrator of the
33 New Jersey Motor Vehicle Commission¹ a **[\$50]** \$100 restoration
34 fee. Unless otherwise specified, whenever a license is revoked
35 pursuant to this section a new license shall not be issued to the
36 person whose license is revoked for at least six months after the
37 date of such revocation, as determined by the **[director]** ¹**[chief**
38 **administrator]** Chief Administrator of the New Jersey Motor
39 Vehicle Commission¹.

40 g. The court may revoke or suspend the privilege of a person to
41 operate a power vessel if that person has been ¹**[convicted of an**
42 **offense under]** found to have violated¹ section 3 of P.L.1975, c.369
43 (C.12:7C-9) or subsection b. of section 10 of P.L.1975, c.369
44 (C.12:7C-16), and ¹'all' outstanding charges for vessel removal,
45 storage, and destruction costs have not been satisfied.

46 (cf: P.L.1995, c.401, s.13)

1 4. Section 1 of P.L.1975, c.369 (C.12:7C-7) is amended to read
2 as follows:

3 1. This act shall be known and may be cited as the "Abandoned
4 or Sunken Vessels Disposition Law."
5 (cf: P.L.1975, c.369, s.1)
6

7 5. Section 2 of P.L.1975, c.369 (C.12:7C-8) is amended to read
8 as follows:

9 2. The following terms whenever used or referred to in this act
10 shall have the following meanings unless a different meaning
11 clearly appears from the context:

12 a. "Vessel" means a boat, ship ^{2,2} or any other watercraft,
13 regardless of whether it is, or was, used for recreational,
14 commercial ^{2,2} or industrial purposes, or any other purpose, other
15 than a seaplane on the water, used or capable of being used as a
16 means of transportation on the water, except a boat or watercraft
17 which is subject to the provisions of P.L.1969, c.264 (C.12:7C-1 et
18 seq.), and includes any trailer used to transport or store it.

19 b. "Owner" means a person or any other legal entity, other than
20 a lienholder, having **【the】** a property interest in or title to a vessel.
21 The term includes a person entitled to the use or possession of a
22 vessel subject to an interest of another person, reserved or created
23 by agreement and securing payment or performance of an
24 obligation, but the term excludes a lessee under a lease not intended
25 as security.

26 c. "Lienholder" means any person or any other legal entity
27 holding a security interest in or to a vessel.

28 d. "Security interest" means an interest which is reserved or
29 created by an agreement which secures payment or performance of
30 an obligation and is valid against third parties generally.

31 e. **【"Division" means the Division of Motor Vehicles in the**
32 **Department of Transportation】** "Commission" means the New
33 Jersey Motor Vehicle Commission.

34 f. "Waters of this State" means all waters within the
35 jurisdiction of this State, both tidal and nontidal, and the marginal
36 sea adjacent to this State to a distance of three nautical miles from
37 the shoreline.

38 g. "Removal costs" means any or all costs associated with the
39 removal, raising, towing, transporting, cleaning, storage, or
40 destruction of any vessel from land or water and shall include the
41 reimbursement of any or all costs incurred by the applicant in the
42 course of acquiring title to an abandoned vessel, including acquiring
43 title to any trailer abandoned with the vessel.

44 h. "Municipal waterway" means any portion of a body of water
45 located within a municipality or any portion of a body of water over
46 which a municipality or harbor commission legally exercises

1 jurisdiction.

2 (cf: P.L.1995, c.401, s.46)

3

4 6. Section 3 of P.L.1975, c.369 (C.12:7C-9) is amended to read
5 as follows:

6 3. a. It shall be unlawful for any **[person]** owner to **[willfully]**
7 abandon any vessel to or upon public land or waters of this State,
8 including any municipal waterway, to or upon any municipally-
9 owned land, or to or upon any private property or the water
10 immediately adjacent thereto without the consent of the official
11 designated by law to have jurisdiction over such public land or
12 waterway, or the owner or other person in charge of the private
13 property ²except when an emergency exists².

14 ¹b. (1) A vessel which has remained moored, grounded,
15 docked, or otherwise attached or fastened to or upon any public
16 land or waterway or any private property without such consent for a
17 period of more than **[6 months]** seven days, or which is submerged
18 partially or completely into the water for any period of time,
19 ²**[shall] may**² be ¹**[prima facie evidence of such abandonment and**
20 shall establish a rebuttable presumption that the vessel is
21 abandoned] impounded if an official authorized by statute or
22 ordinance to enforce regulations related to municipal waterways or
23 a law enforcement officer having enforcement authority has reason
24 to believe the vessel has been abandoned¹.

25 ¹**[b. (1) A] (2)** The¹ vessel ¹**[that is abandoned]**¹ may be
26 removed from a municipal waterway by, or at the direction of, the
27 municipality or harbor commission ¹**[at any time]** and may be
28 impounded under the provisions of paragraph (1) of ²this²
29 subsection ²**[b.]**² and removed to a storage space, and its
30 registration certificate and registration plates seized¹.

31 ¹**[(2)] (3)** The owner shall be responsible for the cost of the
32 removal and storage of the impounded vessel.

33 ¹(4) Whenever a vessel is removed pursuant to ¹**[paragraph (1)**
34 of]¹ this subsection, the official designated by law to have
35 jurisdiction over the municipal waterway shall file an incident
36 report with the ¹New Jersey¹ Motor Vehicle Commission ¹**[in the**
37 Department of Transportation]¹.

38 c. (1) An owner who violates the ¹**[requirements]** provisions¹
39 of subsection a. of this section shall be ¹**[guilty of a disorderly**
40 persons offense and shall be subject to a fine] liable to a civil
41 penalty¹ of not more than \$1,000 ¹**[or imprisonment for a period**
42 not to exceed six months, or both]¹. Each day upon which the
43 violation continues shall constitute a separate offense. ¹**[The**
44 municipal court for the municipality in which the offense occurs
45 shall have jurisdiction to enforce the provisions of this section.]¹

1 (2) The ¹["municipal court clerk shall report to the New Jersey
2 Motor Vehicle Commission any person found guilty pursuant to
3 paragraph (1) of this subsection] civil penalty imposed pursuant to
4 this subsection shall be collected pursuant to the "Penalty
5 Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-10 et seq.),
6 in a summary proceeding. An official authorized by statute or
7 ordinance to enforce regulations related to municipal waterways or
8 a law enforcement officer having enforcement authority in that
9 municipality may issue a summons for a violation of the provisions
10 of this section and may serve and execute all process with respect to
11 the enforcement of this section consistent with the Rules of Court.
12 A penalty recovered under the provisions of this section shall be
13 recovered by ²["],² and in the name of the State ²["],² by the local
14 municipality. The penalty shall be paid into the treasury of the
15 municipality in which the violation occurred for the general uses of
16 the municipality¹.

17 (cf: P.L.1975, c.369, s.3)

18

19 7. Section 4 of P.L.1975, c.369 (C.12:7C-10) is amended to
20 read as follows:

21 4. ¹If the owner ²["or other person who is authorized to claim
22 title to] of² the vessel fails to claim the impounded vessel and pay
23 the reasonable costs of removal and storage by midnight of the 30th
24 day following impoundment, it shall be prima facie evidence of
25 abandonment and shall establish a rebuttable presumption that the
26 vessel is abandoned.¹ A landowner, his lessee, or his agent, or a
27 municipality or harbor commission, in the case of a municipal
28 waterway, may ²["],² ¹["subject to the provisions of [this act]
29 P.L.1975, c.369 (C.12:7C-7 et seq.),] institute proceedings to¹
30 acquire title to any abandoned vessel on his land or the water
31 immediately adjacent thereto ["], which has been abandoned] in the
32 case of a landowner, his lessee ²,² or his agent, or which has
33 become abandoned in a municipal waterway, in the case of a
34 municipality or harbor commission ¹["], according to the provisions
35 of section 3 of [this act] P.L.1975, c.369 (C.12:7C-9)]¹. The
36 acquisition of title divests any other person and any other legal
37 entity, including lienholders, of any interest in the vessel.

38 ¹At any time prior to the final acquisition of title by the
39 landowner, his lessee, his agent ²,² or a municipality or harbor
40 commission, the owner or ²["other person entitled to the vessel] a
41 lessor or holder of a lien on the vessel² may reclaim possession of it
42 upon payment of the reasonable costs of removal and storage of the
43 vessel and any outstanding penalties and court costs assessed
44 against him; provided, however, ²that² if ²["the other person entitled
45 to the vessel] it² is a lessor or the holder of a lien ²["on] who is
46 reclaiming² the vessel , he may reclaim the vessel without payment

1 for the storage but shall pay the costs of removal. In such cases, the
2 owner ²[or other person entitled to] of² the vessel shall be liable
3 for all outstanding costs, fines and penalties, and the municipality
4 shall have a lien against the property and income of that violator for
5 the total amount of those outstanding costs, fines ², ² and penalties
6 ²[in the case where a] if the² vessel has been abandoned in a
7 municipal waterway or ²on² municipally owned land.¹

8 (cf: P.L.1975, c.369, s.4)

9

10 8. Section 5 of P.L.1975, c.369 (C.12:7C-11) is amended to
11 read as follows:

12 5. If a vessel has a boat registration number or other means of
13 identifying the owner thereof, the person, entity, municipality, or
14 harbor commission desiring to acquire title, shall, if possible, secure
15 the owner's last known address, and the lienholder, if any,
16 appearing on the records of the [division. He] ²[New Jersey Motor
17 Vehicle Commission] commission² , and shall notify the owner by
18 registered letter to his last known address and the lienholder by
19 registered letter at the address of the lienholder appearing on the
20 records of the [division] commission that if ownership is not
21 claimed and the vessel removed within 30 days, title to the vessel
22 will be applied for in his or its name, or in the name of the
23 municipality, or harbor commission, as appropriate. If any vessel's
24 owner cannot be identified or his address ascertained, or no
25 lienholder appears on the records of the [division] commission, the
26 registered letter need not be sent.

27 (cf: P.L.1995, c.401, s.47)

28

29 9. Section 6 of P.L.1975, c.369 (C.12:7C-12) is amended to
30 read as follows:

31 6. The person, entity, municipality, or harbor commission
32 desiring to acquire title shall also place a notice in a newspaper of
33 general circulation published in the county or [city] municipality
34 where the vessel is located, describing the vessel, its location of
35 [apparent] abandonment, any identifying number, and shall state if
36 the vessel is not claimed and removed within 30 days after the
37 publication date of the notice, [he] the person, entity, municipality,
38 or harbor commission, as the case may be, will apply for title to the
39 vessel in [his] the person's, entity's, municipality's, or harbor
40 commission's name.

41 (cf: P.L.1975, c.369, s.6)

42

43 10. Section 7 of P.L.1975, c.369 (C.12:7C-13) is amended to
44 read as follows:

45 7. At the end of the 30-day period the person, entity,
46 municipality, or harbor commission desiring to acquire title shall
47 apply to the [division] ¹court for an order directing the¹ ²[New

1 Jersey Motor Vehicle Commission] commission² for '[a] transfer
2 of ' title to the vessel '[in [his] the person's, entity's,
3 municipality's, or harbor commission's name on forms approved by
4 the [division] commission] . In the event the order is granted, the
5 person, entity, municipality, or harbor commission shall provide the
6 commission with a copy of the order¹ accompanied by the
7 following affidavits:

8 a. A statement that the vessel has been [apparently] abandoned
9 [for at least six months].

10 b. Proof that the registered letter was mailed at least 30 days
11 before application or a detailed explanation of the unsuccessful
12 steps taken to identify and secure the address of the owner or
13 lienholder, or both [and secure his address].

14 c. Proof that a notice was printed in a paper as required in
15 section 6 of P.L.1975, c.369 (C.12:7C-12).

16 (cf: P.L.1995, c.401, s.48)

17

18 11. Section 8 of P.L.1975, c.369 (C.12:7C-14) is amended to
19 read as follows:

20 8. Upon receipt of the material required in section 7 of
21 P.L.1975, c.369 (C.12:7C-13) and upon payment of any fees and
22 taxes due, the [division] commission shall issue the applicant a title
23 to the vessel.

24 (cf: P.L.1995, c.401, s.49)

25

26 12. Section 9 of P.L.1975, c.369 (C.12:7C-15) is amended to
27 read as follows:

28 9. All costs incurred in receiving title to a vessel under [this
29 section] P.L.1975, c.369 (C.12:7C-7 et seq.) shall be borne by the
30 applicant. In the case of an applicant that is a municipality or a
31 harbor commission, the applicant may recover all costs incurred in
32 receiving title to an abandoned vessel from the previous owner of
33 the vessel in the same manner as the recovery of the removal or
34 destruction costs authorized under subsection a. of section 10 of
35 P.L.1975, c.369 (C.12:7C-16).

36 (cf: P.L.1975, c.369, s.9)

37

38 13. Section 10 of P.L.1975, c.369 (C.12:7C-16) is amended to
39 read as follows:

40 10. a. After receiving title ¹,¹ if the applicant desires to remove
41 an abandoned vessel from [his] the applicant's land or the water
42 immediately adjacent thereto, or from a municipal waterway or land
43 owned by the municipality, or to destroy such vessel, [the removal]
44 any costs incurred by the applicant shall be borne by the previous
45 owner of [said] the vessel, provided that [such] the owner shall

1 have been identified pursuant to sections 5 or 6 of **[this act]**
2 P.L.1975, c.369 (C.12:7C-11 or C.12:7C-12).

3 b. (1) A previous owner who does not pay the removal cost of
4 the vessel, or who does not reimburse the applicant for the removal
5 cost of the vessel, ¹**[is guilty of a disorderly persons offense and**
6 shall be subject to a fine] shall be liable to a civil penalty¹ of not
7 more than \$1,000 ¹**[or imprisonment for a period not to exceed 6**
8 months, or both,]^{2, 2} in addition to any penalty that may be
9 imposed under section 3 of P.L.1975, c.369 (C.12:7C-9). ¹**[The**
10 municipal court for the municipality in which the offense occurs
11 shall have jurisdiction to enforce the provisions of this section.]¹

12 (2) The ¹**[municipal court clerk shall report to the New Jersey**
13 Motor Vehicle Commission any previous owner found guilty
14 pursuant to paragraph (1) of this subsection] civil penalty imposed
15 pursuant to this subsection shall be collected pursuant to the
16 "Penalty Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-10
17 et seq.), in a summary proceeding. An official authorized by statute
18 or ordinance to enforce ²**[regulation]** regulations² related to
19 municipal waterways or a law enforcement officer having
20 enforcement authority in that municipality may issue a summons for
21 a violation of the provisions of this section and may serve and
22 execute all process with respect to the enforcement of this section
23 consistent with the Rules of Court. A penalty recovered under the
24 provisions of this section shall be recovered by and in the name of
25 the State by the local municipality. The penalty shall be paid into
26 the treasury of the municipality in which the violation occurred for
27 the general uses of the municipality¹.

28 (P.L.1975, c.369, s.10)

29

30 14. Section 11 of P.L.1975, c.369 (C.12:7C-17) is amended to
31 read as follows:

32 11. After receiving title if the applicant destroys or otherwise
33 disposes of the vessel, **[he]** the applicant shall report the same to
34 the **[division]** commission within 15 days giving all details.

35 (cf: P.L.1995, c.401, s.50)

36

37 15. Section 12 of P.L.1975, c.369 (C.12:7C-18) is amended to
38 read as follows:

39 12. The **[division]** commission may receive title to any vessel
40 abandoned on any of the waters of this State, including municipal
41 waterways, or on any land owned by this State or any of its political
42 subdivisions by proceeding in the same manner as a landowner, his
43 lessee, or his agent, or a municipality, or a harbor commission, as
44 set forth in **[this act]** P.L.1975, c.369 (C.12:7C-7 et seq.).

45 (cf: P.L.1995, c.401, s.51)

1 16. Section 13 of P.L.1975, c.369 (C.12:7C-19) is amended to
2 read as follows:

3 13. a. ~~Any person who violates section 3 of P.L.1975, c.369~~
4 ~~(C.12:7C-9) shall be subject to a fine of not less than \$500 and not~~
5 ~~more than \$1,000 to be recovered in a summary proceeding~~
6 ~~instituted by the Attorney General in the name of the State in~~
7 ~~accordance with the "the penalty enforcement law" (N.J.S.2A:58-1~~
8 ~~et seq.).~~ ~~(Deleted by amendment, P.L.____, c.____²[(C.____)]²)~~
9 ~~(pending before the Legislature as this bill)~~

10 b. Any person who obtains or attempts to obtain title to a vessel
11 under the provisions of ~~this act~~ P.L.1975, c.369 (C.12:7C-7 et
12 seq.) through fraudulent means is ¹~~guilty of a disorderly persons~~
13 ~~offense and upon conviction shall be subject to a fine~~ liable to a
14 civil penalty¹ of not more than ~~[\$200] \$1,000.~~

15 ¹The civil penalty imposed pursuant to this section shall be
16 collected pursuant to the "Penalty Enforcement Law of 1999,"
17 P.L.1999, c.274 (C.2A:58-10 et seq.), in a summary proceeding.
18 An official authorized by ordinance to enforce regulations related to
19 municipal waterways or a law enforcement officer having
20 enforcement authority in that municipality may issue a summons for
21 a violation of the provisions of the ordinance and may serve and
22 execute all process with respect to the enforcement of this section
23 consistent with the Rules of Court. A penalty recovered under the
24 provisions of this section shall be recovered by and in the name of
25 the State by the local municipality. The penalty shall be paid into
26 the treasury of the municipality in which the violation occurred for
27 the general uses of the municipality.¹

28 (cf: P.L.1995, c.401, s.52)

29

30 17. Section 14 of P.L.1975, c.369 (C.12:7C-20) is amended to
31 read as follows:

32 14. The ~~division~~ commission may promulgate pursuant to the
33 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
34 seq.) such rules and regulations deemed necessary to carry out the
35 provisions of ~~this act~~ P.L.1975, c.369 (C.12:7C-7 et seq.).

36 (cf: P.L.1995, c.401, s.53)

37

38 18. R.S.40:14-3 is amended to read as follows:

39 40:14-3. Whenever any one or more counties and municipalities
40 shall have flowing through their respective boundaries and borders,
41 any inland waterways or navigable stream, and it shall be deemed to
42 the advantage of any two or more of said counties and
43 municipalities, to improve such inland waterways or streams by
44 increasing their depth or width or both, they may, acting together
45 advertise for bids for the doing of such work, and enter into a joint
46 contract therefor. The improvement of inland waterways or
47 navigable streams includes the raising, recovery, towing, removal,

1 storage, destruction, and disposal of vessels that have been
2 abandoned in an inland waterway or navigable stream, as
3 appropriate, pursuant to the procedures applicable to municipal
4 waterways in the "Abandoned or Sunken Vessels Disposition Law,"
5 P.L.1975, c.369 (C.12:7C-7 et seq.). A vessel that has been
6 abandoned at a public or private marina, pier, or boat dock located
7 in an inland waterway or navigable stream is considered abandoned
8 in that inland waterway or navigable stream.

9 (cf: R.S.40:14-3)

10

11 19. R.S.40:14-4 is amended to read as follows:

12 40:14-4. Whenever the work of increasing the depth or width or
13 both of such inland waterways or navigable stream is contemplated,
14 each county and municipality desiring to enter into the project shall,
15 by its board or body having control of such waterway or navigable
16 stream, introduce and pass a resolution, declaring the advisability of
17 so doing.

18 The resolution shall set forth, in a general way, the work
19 proposed to be done and its estimated cost, and after all of the
20 counties and municipalities contemplating the doing of such work
21 have passed such a resolution, a proposed form of agreement shall
22 be prepared between them, setting forth the work or works to be
23 undertaken, the plans and specifications therefor, and the estimated
24 cost, together with the proportion of the cost thereof to be borne by
25 each, and any other provisions deemed necessary or proper, to be
26 inserted therein.

27 The work of removing abandoned vessels shall not require joint
28 action unless it is part of a program to remove more than three
29 abandoned vessels from the inland waterway or navigable stream.

30 (cf: R.S.40:14-4)

31

32 20. R.S.40:14-5 is amended to read as follows:

33 40:14-5. The work authorized and mentioned **【herein】** in
34 chapter 14 of Title 40 of the Revised Statutes (²**【C.】** R.S.² 40:14-1
35 et seq.) may be done either as a local or general improvement, and
36 notice of all proceedings shall be given as is required for such
37 improvements under chapter 56 of this title (**【s.】** R.S. 40:56-1 et
38 seq.), except that if the work concerns the raising, recovery, towing,
39 removal, storage, destruction, or disposal of an abandoned vessel,
40 the local unit shall charge those costs to the owner or operator of
41 that vessel pursuant to the "Abandoned or Sunken Vessels
42 Disposition Law," P.L.1975, c.369 (C.12:7C-7 et seq.).

43 (cf: R.S.40:14-5)

44

45 21. R.S.40:14-6 is amended to read as follows:

46 40:14-6. All work to be done pursuant to the provisions
47 **【hereof】** of chapter 14 of Title 40 of the Revised Statutes
48 (R.S.40:14-1 et seq.), shall be by contract let to the lowest

1 responsible bidder after advertisement for bids in accordance with
2 the provisions of [chapter 50 of this title (s. 40:50-1 et seq.)] the
3 “Local Public Contracts Law,” P.L.1971, c.198 (C.40A:11-1 et
4 seq.).

5 (cf: R.S.40:14-6)

6
7 22. Section 2 of P.L.1940, c.161 (C.40:68-23) is amended to
8 read as follows:

9 2. The commission so created shall be vested with such powers
10 and duties as shall be defined and designated by ordinance adopted
11 by the governing body of such municipality with respect to the
12 management, operation and control of the harbor and water front
13 owned or leased by said municipality, including the construction,
14 maintenance, operation and use of the harbor, water front, beach,
15 land and all properties, structures, piers, bulkheads and jetties
16 located upon lands owned or leased by the municipality and upon
17 lands owned or leased by the municipality contiguous to such
18 harbor, water front and beach. A commission is vested with the
19 power to raise, recover, tow, remove, store, destroy, and dispose of
20 vessels that have been abandoned in the harbor or waterfront, as
21 appropriate, pursuant to the procedures applicable to municipal
22 waterways in the "Abandoned or Sunken Vessels Disposition Law,"
23 P.L.1975, c.369 (C.12:7C-7 et seq.). A vessel that has been
24 abandoned at a public or private boat dock, pier, or marina is
25 considered abandoned in the harbor or waterfront.

26 (cf: P.L.1940, c.161, s.2)

27

28 23. (New section) a. A municipality may adopt an ordinance,
29 or a harbor commission may adopt a resolution, requiring every
30 owner or operator of a vessel that moors or docks in a municipal
31 waterway, or grounds on land, under the control of the municipality
32 or harbor commission, to register with the official designated by the
33 ordinance or resolution to have jurisdiction over the public land or
34 municipal waterway where the vessel is moored, grounded, or
35 docked. The registration shall include the length of time the vessel
36 is intended to remain at the location along with the home address
37 and telephone number of the owner or operator of the vessel, and a
38 local address and telephone number where the owner or operator
39 can be contacted. Nothing in this section shall prevent the operator
40 of a vessel from anchoring, grounding, or mooring a vessel when an
41 emergency exists that requires such action to be taken to safeguard
42 the lives of the passengers, the vessel, or the environment.²

43 b. If an ordinance or resolution has been adopted pursuant to
44 subsection a. of this section, then notice shall be posted around the
45 harbor, municipal waterway, navigable stream, or public land
46 stating where the owner or operator of a vessel shall register the
47 required information.

1 c. The ordinance or resolution shall designate one or more
2 holding areas, public or private, at which vessels in violation of the
3 registration requirement may be held.

4 d. After a vessel has been moored, grounded, or docked
5 without registration for a period of one week, an enforcement
6 official acting for or on behalf of the municipality or harbor
7 commission, may affix a notice on the vessel advising that if the
8 vessel is not removed by the date indicated on the notice, which
9 shall be no less than seven calendar days following the date that the
10 notice is affixed, then the vessel, including any trailer upon which a
11 grounded vessel has been placed, will be removed to a holding area.

12 e. No public entity, agents ^{2,2} or authorized representatives
13 shall be held liable for any damage or loss to any vessel or its
14 contents that is removed to a holding area and stored pursuant to the
15 authority of this section.

16 f. An owner or operator who violates the provisions of an
17 ordinance or resolution adopted pursuant to this section shall be
18 ~~'[subject to a fine] liable to a civil penalty'~~ of not less than \$100
19 ~~'[or] nor'~~ more than \$1,250 ~~'[, or imprisonment for a period not to~~
20 ~~exceed six months, or both]'~~. Each day upon which the violation
21 continues shall constitute a separate offense. ~~'[The imposition of a~~
22 ~~fine under this section shall be enforceable in municipal court.]~~ The
23 civil penalty imposed pursuant to this section shall be collected
24 pursuant to the "Penalty Enforcement Law of 1999," P.L.1999,
25 c.274 (C.2A:58-10 et seq.), in a summary proceeding. An official
26 authorized by ordinance to enforce regulations related to municipal
27 waterways or a law enforcement officer having enforcement
28 authority in that municipality may issue a summons for a violation
29 of the provisions of the ordinance and may serve and execute all
30 process with respect to the enforcement of this section consistent
31 with the Rules of Court. A penalty recovered under the provisions
32 of this section shall be recovered by and in the name of the State by
33 the local municipality. The penalty shall be paid into the treasury
34 of the municipality in which the violation occurred for the general
35 uses of the municipality.'
36

37 24. This act shall take effect on the first day of the third month
38 after enactment, but such anticipatory administrative action may be
39 taken in advance thereof as shall be necessary for the
40 implementation of this act.

41
42
43
44
45 _____
46 Revises statutes concerning abandoned vessels to include sunken
vessels; authorizes certain entities to remove abandoned vessels.

SENATE, No. 1390

STATE OF NEW JERSEY 213th LEGISLATURE

INTRODUCED FEBRUARY 26, 2008

Sponsored by:

Senator JEFF VAN DREW

District 1 (Cape May, Atlantic and Cumberland)

SYNOPSIS

Revises statutes concerning abandoned vessels to include sunken vessels; authorizes municipalities to remove abandoned vessels from municipal waterways.

CURRENT VERSION OF TEXT

As introduced.



S1390 VAN DREW

2

1 AN ACT concerning sunken or abandoned vessels, amending and
2 supplementing P.L.1975, c.369, and amending various sections
3 of statutory law.

4

5 **BE IT ENACTED** by the Senate and General Assembly of the State
6 of New Jersey:

7

8 1. Section 4 of P.L.1962, c.73 (C.12:7-34.39) is amended to
9 read as follows:

10 4. (a) The owner of a vessel required to be numbered in this
11 State shall file an application with the **[division]** New Jersey Motor
12 Vehicle Commission on forms approved by it. The application
13 shall be signed by the owner and shall be accompanied by the fee
14 prescribed by this act for such vessel. Upon receipt of the
15 application in the approved form and the prescribed fee, the
16 **[division]** New Jersey Motor Vehicle Commission shall enter the
17 same upon the records of its office and issue to the applicant a
18 pocket-size, laminated or otherwise water resistant certificate of
19 number, which shall state the name and address of the owner, a
20 description of the vessel, its use, and the number assigned.

21 (b) Except as provided herein, the certificate of number shall be
22 available at all times for inspection on the vessel for which issued
23 whenever such vessel is in operation. The certificate of number for
24 vessels less than 26 feet in length and leased or rented to another for
25 the latter's noncommercial use of less than 24 hours may be retained
26 on shore by the vessel's owner or his representative at the place
27 from which the vessel departs or returns to the possession of the
28 owner or his representative; provided such substitute as the
29 **[director]** New Jersey Motor Vehicle Commission may prescribe
30 by regulation is carried on board.

31 (c) The number assigned to a vessel shall be displayed on each
32 side of the bow thereof, as prescribed by regulations of the
33 **[division]** New Jersey Motor Vehicle Commission, using letters
34 and numerals not less than three inches in height; except that this
35 provision shall not apply to a one-design class racing sailboat,
36 without power installed either inboard or outboard, which is
37 required to be numbered under section 3 of P.L.1962, c.73 (C.12:7-
38 34.38). No other number shall be displayed on the bow.

39 (d) No application for a vessel number shall be approved if the
40 applicant or owner has been convicted of a violation of section 3 of
41 P.L.1975, c.369 (C.12:7C-9) or subsection b. of section 10 of
42 P.L.1975, c.369 (C.12:7C-16), until the New Jersey Motor Vehicle
43 Commission has been notified by the appropriate municipality or
44 harbor commission that all outstanding charges for vessel removal,

EXPLANATION – Matter enclosed in bold-faced brackets **[thus]** in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

S1390 VAN DREW

3

1 storage, and destruction costs have been satisfied.

2 (cf: P.L.1995, c.401, s.21)

3

4 2. Section 3 of P.L.1995, c.401 (C.12:7-72) is amended to read
5 as follows:

6 3. a. (1) Upon proper application therefor, the **[director]** Chief
7 Administrator of the New Jersey Motor Vehicle Commission shall
8 license a person to operate a power vessel on the nontidal waters of
9 this State. A person shall not make any misstatement of fact in an
10 application for a power vessel operator's license.

11 (2) The New Jersey Motor Vehicle Commission shall not issue
12 or renew the license of any person who has been found guilty of an
13 offense pursuant to section 10 of P.L.1975, c.369 (C.12:7C-16),
14 until the commission has been notified by the appropriate
15 municipality or harbor commission that all outstanding charges for
16 vessel removal, storage, and destruction costs have been satisfied.

17 b. Except as provided pursuant to subsections c. and g. of this
18 section:

19 (1) A person shall not operate a power vessel on the nontidal
20 waters of this State without being licensed by the **[director]** chief
21 administrator; and

22 (2) A person under 16 years of age shall not be licensed to
23 operate a power vessel on the nontidal waters of this State.

24 c. A person is not required to be licensed pursuant to
25 subsection b. of this section when operating a power vessel:

26 (1) powered solely by a motor of less than one horsepower or an
27 electric motor of 12 volts or less;

28 (2) that is 12 feet or greater in length and powered by a motor,
29 or combination of motors, of less than 10 horsepower;

30 (3) while actually competing in an authorized race held under
31 the auspices of a duly incorporated yacht club or racing association
32 in accordance with rules and regulations prescribed by the Division
33 of State Police in the Department of Law and Public Safety and
34 pursuant to a permit duly issued by that division;

35 (4) if the person is an out-of-State resident and has written
36 proof, while operating the power vessel, of successful completion of
37 a boat safety course substantially similar to the boat safety course
38 administered pursuant to section 1 of P.L.1987, c.453 (C.12:7-60).

39 d. Except as provided pursuant to subsection c. of this section,
40 a person shall have in his possession a proper license at all times
41 when operating a power vessel on nontidal waters and shall exhibit
42 the license to any law enforcement officer upon request. Failure of
43 a person to exhibit such license upon request shall be presumptive
44 evidence that the person is not a licensed operator.

45 e. A person who violates the provisions of subsection b. of this
46 section shall be subject to a fine of not more than \$500 or to a term
47 of imprisonment not to exceed 60 days, or both, except that:

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1 (1) A person who has never been licensed to operate a power
2 vessel on the nontidal waters of this State or any other jurisdiction
3 shall be subject to a fine of not less than \$200 and, in addition, the
4 court shall issue an order to the **【Director of the Division of Motor**
5 **Vehicles】** Chief Administrator of the New Jersey Motor Vehicle
6 Commission requiring the **【director】** chief administrator to refuse
7 to issue a license to operate a power vessel on the nontidal waters of
8 this State to that person for a period of not less than 180 days; and

9 (2) A person who can exhibit to the court before which the
10 person is summoned to answer to the charge a valid operator's
11 license issued to that person which was valid on the day that person
12 was charged shall be subject to a fine of not more than \$100, in
13 addition to any reasonable court costs the court may impose.
14 Notwithstanding the provisions of this subsection, the court may, in
15 its discretion, dismiss a charge regarding the failure to exhibit an
16 operator's license brought pursuant to the provisions of this section.

17 f. The penalties provided for pursuant to subsection e. of this
18 section shall not be applicable in cases where failure to have actual
19 possession of the operator's license is due to an administrative or
20 technical error by the **【Division of Motor Vehicles】** New Jersey
21 Motor Vehicle Commission.

22 g. A person who is under 16 years of age and was issued an
23 operator's license pursuant to section 7 of P.L.1954, c.236 (C.12:7-
24 34.7) before July 1, 1996 may operate a power vessel equipped with
25 an outboard motor until the expiration date of that license.
26 (cf: P.L.1997, c.152, s.1)

27
28 3. Section 13 of P.L.1995, c.401 (C.12:7-82) is amended to read
29 as follows:

30 13. a. A court may revoke or suspend the privilege of a person
31 to operate a power vessel if that person has been convicted of
32 homicide in connection with the operation of a motor vehicle or of
33 operating a motor vehicle while under the influence of intoxicating
34 liquor or a narcotic, hallucinogenic or habit producing drug.

35 b. A court may revoke or suspend the privilege of a person to
36 operate a power vessel if that person has been charged with a
37 homicide in connection with the operation of a motor vehicle or of
38 operating a vessel or motor vehicle while under the influence of
39 intoxicating liquor or a narcotic, hallucinogenic or habit producing
40 drug, pending disposition of that charge, or for any other violation
41 of any of the provisions of chapter 7 of Title 12 of the Revised
42 Statutes or of any rule or regulation prescribed thereunder by the
43 **【director】** chief administrator or the commission.

44 c. A court shall revoke or suspend the privilege of a person to
45 operate a power vessel if that person has been charged with or
46 convicted of homicide in connection with the operation of a vessel.

1 d. When a person's privilege to operate a power vessel is
2 revoked or suspended, that person shall have an opportunity to be
3 heard. Attendance of witnesses to such hearing may be compelled
4 by subpoena.

5 e. Failure of the licensee or any other person possessing the
6 license card to deliver the same to the suspending or revoking court,
7 or the **[director]** chief administrator if so ordered, shall constitute a
8 violation. A court that suspends or revokes a license shall promptly
9 place the license card in the custody of the **[division]** New Jersey
10 Motor Vehicle Commission, except when the **[division]**
11 commission shall otherwise direct.

12 f. The **[division]** New Jersey Motor Vehicle Commission shall
13 have the exclusive power to restore a person's privilege to operate a
14 power vessel and may restore that privilege after the person pays to
15 the **[director]** chief administrator a **[\$50]** \$100 restoration fee.
16 Unless otherwise specified, whenever a license is revoked pursuant
17 to this section a new license shall not be issued to the person whose
18 license is revoked for at least six months after the date of such
19 revocation, as determined by the **[director]** chief administrator.

20 g. The court may revoke or suspend the privilege of a person to
21 operate a power vessel if that person has been convicted of an
22 offense under section 3 of P.L.1975, c.369 (C.12:7C-9) or
23 subsection b. of section 10 of P.L.1975, c.369 (C.12:7C-16), and
24 outstanding charges for vessel removal, storage, and destruction
25 costs have not been satisfied.

26 (cf: P.L.1995, c.401, s.13)

27

28 4. Section 1 of P.L.1975, c.369 (C.12:7C-7) is amended to read
29 as follows:

30 1. This act shall be known and may be cited as the "Abandoned
31 or Sunken Vessels Disposition Law."

32 (cf: P.L.1975, c.369, s.1)

33

34 5. Section 2 of P.L.1975, c.369 (C.12:7C-8) is amended to read
35 as follows:

36 2. The following terms whenever used or referred to in this act
37 shall have the following meanings unless a different meaning
38 clearly appears from the context:

39 a. "Vessel" means a boat, ship or any other watercraft,
40 regardless of whether it is, or was, used for recreational,
41 commercial or industrial purposes, or any other purpose, other than
42 a seaplane on the water, used or capable of being used as a means of
43 transportation on the water, except a boat or watercraft which is
44 subject to the provisions of P.L.1969, c.264 (C.12:7C-1 et seq.), and
45 includes any trailer used to transport or store it.

46 b. "Owner" means a person or any other legal entity, other than
47 a lienholder, having **[the]** a property interest in or title to a vessel.

1 The term includes a person entitled to the use or possession of a
2 vessel subject to an interest of another person, reserved or created
3 by agreement and securing payment or performance of an
4 obligation, but the term excludes a lessee under a lease not intended
5 as security.

6 c. "Lienholder" means any person or any other legal entity
7 holding a security interest in or to a vessel.

8 d. "Security interest" means an interest which is reserved or
9 created by an agreement which secures payment or performance of
10 an obligation and is valid against third parties generally.

11 e. ["Division" means the Division of Motor Vehicles in the
12 Department of Transportation] "Commission" means the New
13 Jersey Motor Vehicle Commission.

14 f. "Waters of this State" means all waters within the
15 jurisdiction of this State, both tidal and nontidal, and the marginal
16 sea adjacent to this State to a distance of three nautical miles from
17 the shoreline.

18 g. "Removal costs" means any or all costs associated with the
19 removal, raising, towing, transporting, cleaning, storage, or
20 destruction of any vessel from land or water and shall include the
21 reimbursement of any or all costs incurred by the applicant in the
22 course of acquiring title to an abandoned vessel, including acquiring
23 title to any trailer abandoned with the vessel.

24 h. "Municipal waterway" means any portion of a body of water
25 located within a municipality or any portion of a body of water over
26 which a municipality or harbor commission legally exercises
27 jurisdiction.

28 (cf: P.L.1995, c.401, s.46)

29

30 6. Section 3 of P.L.1975, c.369 (C.12:7C-9) is amended to read
31 as follows:

32 3. a. It shall be unlawful for any **[person]** owner to [willfully]
33 abandon any vessel to or upon public land or waters of this State,
34 including any municipal waterway, to or upon any municipally-
35 owned land, or to or upon any private property or the water
36 immediately adjacent thereto without the consent of the official
37 designated by law to have jurisdiction over such public land or
38 waterway, or the owner or other person in charge of the private
39 property. A vessel which has remained moored, grounded, docked,
40 or otherwise attached or fastened to or upon any public land or
41 waterway or any private property without such consent for a period
42 of more than [6 months] seven days, or which is submerged
43 partially or completely into the water for any period of time, shall
44 be prima facie evidence of such abandonment and shall establish a
45 rebuttable presumption that the vessel is abandoned.

46 b. (1) A vessel that is abandoned may be removed from a
47 municipal waterway by, or at the direction of, the municipality or
48 harbor commission at any time.

1 (2) Whenever a vessel is removed pursuant to paragraph (1) of
2 this subsection, the official designated by law to have jurisdiction
3 over the municipal waterway shall file an incident report with the
4 Motor Vehicle Commission in the Department of Transportation.

5 c. (1) An owner who violates the requirements of subsection a.
6 of this section shall be guilty of a disorderly persons offense and
7 shall be subject to a fine of not more than \$1,000 or imprisonment
8 for a period not to exceed six months, or both. Each day upon
9 which the violation continues shall constitute a separate offense.
10 The municipal court for the municipality in which the offense
11 occurs shall have jurisdiction to enforce the provisions of this
12 section.

13 (2) The municipal court clerk shall report to the New Jersey
14 Motor Vehicle Commission any person found guilty pursuant to
15 paragraph (1) of this subsection.

16 (cf: P.L.1975, c.369, s.3)

17
18 7. Section 4 of P.L.1975, c.369 (C.12:7C-10) is amended to
19 read as follows:

20 4. A landowner, his lessee, or his agent, or a municipality or
21 harbor commission, in the case of a municipal waterway, may,
22 subject to the provisions of [this act] P.L.1975, c.369 (C.12:7C-7 et
23 seq.), acquire title to any abandoned vessel on his land or the water
24 immediately adjacent thereto [, which has been abandoned] in the
25 case of a landowner, his lessee or his agent, or which has become
26 abandoned in a municipal waterway, in the case of a municipality or
27 harbor commission, according to the provisions of section 3 of [this
28 act] P.L.1975, c.369 (C.12:7C-9). The acquisition of title divests
29 any other person and any other legal entity, including lienholders,
30 of any interest in the vessel.

31 (cf: P.L.1975, c.369, s.4)

32
33 8. Section 5 of P.L.1975, c.369 (C.12:7C-11) is amended to
34 read as follows:

35 5. If a vessel has a boat registration number or other means of
36 identifying the owner thereof, the person, entity, municipality, or
37 harbor commission desiring to acquire title, shall, if possible, secure
38 the owner's last known address, and the lienholder, if any,
39 appearing on the records of the [division. He] New Jersey Motor
40 Vehicle Commission, and shall notify the owner by registered letter
41 to his last known address and the lienholder by registered letter at
42 the address of the lienholder appearing on the records of the
43 [division] commission that if ownership is not claimed and the
44 vessel removed within 30 days, title to the vessel will be applied for
45 in his or its name, or in the name of the municipality, or harbor
46 commission, as appropriate. If any vessel's owner cannot be
47 identified or his address ascertained, or no lienholder appears on the

1 records of the **[division]** commission, the registered letter need not
2 be sent.

3 (cf: P.L.1995, c.401, s.47)

4

5 9. Section 6 of P.L.1975, c.369 (C.12:7C-12) is amended to
6 read as follows:

7 6. The person, entity, municipality, or harbor commission
8 desiring to acquire title shall also place a notice in a newspaper of
9 general circulation published in the county or **[city]** municipality
10 where the vessel is located, describing the vessel, its location of
11 **[apparent]** abandonment, any identifying number, and shall state if
12 the vessel is not claimed and removed within 30 days after the
13 publication date of the notice, **[he]** the person, entity, municipality,
14 or harbor commission, as the case may be, will apply for title to the
15 vessel in **[his]** the person's, entity's, municipality's, or harbor
16 commission's name.

17 (cf: P.L.1975, c.369, s.6)

18

19 10. Section 7 of P.L.1975, c.369 (C.12:7C-13) is amended to
20 read as follows:

21 7. At the end of the 30-day period the person, entity,
22 municipality, or harbor commission desiring to acquire title shall
23 apply to the **[division]** New Jersey Motor Vehicle Commission for
24 a title to the vessel in **[his]** the person's, entity's, municipality's, or
25 harbor commission's name on forms approved by the **[division]**
26 commission accompanied by the following affidavits:

27 a. A statement that the vessel has been **[apparently]** abandoned
28 **[for at least six months]**.

29 b. Proof that the registered letter was mailed at least 30 days
30 before application or a detailed explanation of the unsuccessful
31 steps taken to identify and secure the address of the owner or
32 lienholder, or both **[and secure his address]**.

33 c. Proof that a notice was printed in a paper as required in
34 section 6 of P.L.1975, c.369 (C.12:7C-12).

35 (cf: P.L.1995, c.401, s.48)

36

37 11. Section 8 of P.L.1975, c.369 (C.12:7C-14) is amended to
38 read as follows:

39 8. Upon receipt of the material required in section 7 of
40 P.L.1975, c.369 (C.12:7C-13) and upon payment of any fees and
41 taxes due, the **[division]** commission shall issue the applicant a title
42 to the vessel.

43 (cf: P.L.1995, c.401, s.49)

44

45 12. Section 9 of P.L.1975, c.369 (C.12:7C-15) is amended to
46 read as follows:

1 9. All costs incurred in receiving title to a vessel under **[this**
2 **section]** P.L.1975, c.369 (C.12:7C-7 et seq.) shall be borne by the
3 applicant. In the case of an applicant that is a municipality or a
4 harbor commission, the applicant may recover all costs incurred in
5 receiving title to an abandoned vessel from the previous owner of
6 the vessel in the same manner as the recovery of the removal or
7 destruction costs authorized under subsection a. of section 10 of
8 P.L.1975, c.369 (C.12:7C-16).

9 (cf: P.L.1975, c.369, s.9)

10
11 13. Section 10 of P.L.1975, c.369 (C.12:7C-16) is amended to
12 read as follows:

13 10. a. After receiving title if the applicant desires to remove an
14 abandoned vessel from **[his]** the applicant's land or the water
15 immediately adjacent thereto, or from a municipal waterway or land
16 owned by the municipality, or to destroy such vessel, **[the removal]**
17 any costs incurred by the applicant shall be borne by the previous
18 owner of **[said]** the vessel, provided that **[such]** the owner shall
19 have been identified pursuant to sections 5 or 6 of **[this act]**
20 P.L.1975, c.369 (C.12:7C-11 or C.12:7C-12).

21 b. (1) A previous owner who does not pay the removal cost of
22 the vessel, or who does not reimburse the applicant for the removal
23 cost of the vessel, is guilty of a disorderly persons offense and shall
24 be subject to a fine of not more than \$1,000 or imprisonment for a
25 period not to exceed 6 months, or both, in addition to any penalty
26 that may be imposed under section 3 of P.L.1975, c.369 (C.12:7C-
27 9). The municipal court for the municipality in which the offense
28 occurs shall have jurisdiction to enforce the provisions of this
29 section.

30 (2) The municipal court clerk shall report to the New Jersey
31 Motor Vehicle Commission any previous owner found guilty
32 pursuant to paragraph (1) of this subsection.

33 (cf: P.L.1975, c.369, s.10)

34
35 14. Section 11 of P.L.1975, c.369 (C.12:7C-17) is amended to
36 read as follows:

37 11. After receiving title if the applicant destroys or otherwise
38 disposes of the vessel, **[he]** the applicant shall report the same to
39 the **[division]** commission within 15 days giving all details.

40 (cf: P.L.1995, c.401, s.50)

41
42 15. Section 12 of P.L.1975, c.369 (C.12:7C-18) is amended to
43 read as follows:

44 12. The **[division]** commission may receive title to any vessel
45 abandoned on any of the waters of this State, including municipal
46 waterways, or on any land owned by this State or any of its political
47 subdivisions by proceeding in the same manner as a landowner, his

1 lessee, or his agent, or a municipality, or a harbor commission, as
2 set forth in **[this act]** P.L.1975, c.369 (C.12:7C-7 et seq.).

3 (cf: P.L.1995, c.401, s.51)

4

5 16. Section 13 of P.L.1975, c.369 (C.12:7C-19) is amended to
6 read as follows:

7 13. a. **[Any person who violates section 3 of P.L.1975, c.369**
8 **(C.12:7C-9) shall be subject to a fine of not less than \$500 and not**
9 **more than \$1,000 to be recovered in a summary proceeding**
10 **instituted by the Attorney General in the name of the State in**
11 **accordance with the "the penalty enforcement law" (N.J.S.2A:58-1**
12 **et seq.).]** (Deleted by amendment, P.L. .c. (C.) (pending
13 before the Legislature as this bill)

14 b. Any person who obtains or attempts to obtain title to a vessel
15 under the provisions of **[this act]** P.L.1975, c.369 (C.12:7C-7 et
16 seq.) through fraudulent means is guilty of a disorderly persons
17 offense and upon conviction shall be subject to a fine of not more
18 than **[\$200]** \$1,000.

19 (cf: P.L.1995, c.401, s.52)

20

21 17. Section 14 of P.L.1975, c.369 (C.12:7C-20) is amended to
22 read as follows:

23 14. The **[division]** commission may promulgate pursuant to the
24 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
25 seq.) such rules and regulations deemed necessary to carry out the
26 provisions of **[this act]** P.L.1975, c.369 (C.12:7C-7 et seq.).

27 (cf: P.L.1995, c.401, s.53)

28

29 18. R.S.40:14-3 is amended to read as follows:

30 40:14-3. Whenever any one or more counties and municipalities
31 shall have flowing through their respective boundaries and borders,
32 any inland waterways or navigable stream, and it shall be deemed to
33 the advantage of any two or more of said counties and
34 municipalities, to improve such inland waterways or streams by
35 increasing their depth or width or both, they may, acting together
36 advertise for bids for the doing of such work, and enter into a joint
37 contract therefor. The improvement of inland waterways or
38 navigable streams includes the raising, recovery, towing, removal,
39 storage, destruction, and disposal of vessels that have been
40 abandoned in an inland waterway or navigable stream, as
41 appropriate, pursuant to the procedures applicable to municipal
42 waterways in the "Abandoned or Sunken Vessels Disposition Law,"
43 P.L.1975, c.369 (C.12:7C-7 et seq.). A vessel that has been
44 abandoned at a public or private marina, pier, or boat dock located
45 in an inland waterway or navigable stream is considered abandoned
46 in that inland waterway or navigable stream.

47 (cf: R.S.40:14-3)

1 19. R.S.40:14-4 is amended to read as follows:

2 40:14-4. Whenever the work of increasing the depth or width or
3 both of such inland waterways or navigable stream is contemplated,
4 each county and municipality desiring to enter into the project shall,
5 by its board or body having control of such waterway or navigable
6 stream, introduce and pass a resolution, declaring the advisability of
7 so doing.

8 The resolution shall set forth, in a general way, the work
9 proposed to be done and its estimated cost, and after all of the
10 counties and municipalities contemplating the doing of such work
11 have passed such a resolution, a proposed form of agreement shall
12 be prepared between them, setting forth the work or works to be
13 undertaken, the plans and specifications therefor, and the estimated
14 cost, together with the proportion of the cost thereof to be borne by
15 each, and any other provisions deemed necessary or proper, to be
16 inserted therein.

17 The work of removing abandoned vessels shall not require joint
18 action unless it is part of a program to remove more than three
19 abandoned vessels from the inland waterway or navigable stream.

20 (cf: R.S.40:14-4)

21

22 20. R.S.40:14-5 is amended to read as follows:

23 40:14-5. The work authorized and mentioned [herein] in
24 chapter 14 of Title 40 of the Revised Statutes (C.40:14-1 et seq.)
25 may be done either as a local or general improvement, and notice of
26 all proceedings shall be given as is required for such improvements
27 under chapter 56 of this title ([s.] R.S. 40:56-1 et seq.), except that
28 if the work concerns the raising, recovery, towing, removal, storage,
29 destruction, or disposal of an abandoned vessel, the local unit shall
30 charge those costs to the owner or operator of that vessel pursuant
31 to the "Abandoned or Sunken Vessels Disposition Law," P.L.1975,
32 c.369 (C.12:7C-7 et seq.).

33 (cf: R.S.40:14-5)

34

35 21. R.S.40:14-6 is amended to read as follows:

36 40:14-6. All work to be done pursuant to the provisions
37 [hereof] of chapter 14 of Title 40 of the Revised Statutes
38 (R.S.40:14-1 et seq.), shall be by contract let to the lowest
39 responsible bidder after advertisement for bids in accordance with
40 the provisions of [chapter 50 of this title (s. 40:50-1 et seq.)] the
41 "Local Public Contracts Law," P.L.1971, c.198 (C.40A:11-1 et
42 seq.).

43 (cf: R.S.40:14-6)

44

45 22. Section 2 of P.L.1940, c.161 (C.40:68-23) is amended to
46 read as follows:

47 2. The commission so created shall be vested with such powers
48 and duties as shall be defined and designated by ordinance adopted

1 by the governing body of such municipality with respect to the
2 management, operation and control of the harbor and water front
3 owned or leased by said municipality, including the construction,
4 maintenance, operation and use of the harbor, water front, beach,
5 land and all properties, structures, piers, bulkheads and jetties
6 located upon lands owned or leased by the municipality and upon
7 lands owned or leased by the municipality contiguous to such
8 harbor, water front and beach. A commission is vested with the
9 power to raise, recover, tow, remove, store, destroy, and dispose of
10 vessels that have been abandoned in the harbor or waterfront, as
11 appropriate, pursuant to the procedures applicable to municipal
12 waterways in the "Abandoned or Sunken Vessels Disposition Law,"
13 P.L.1975, c.369 (C.12:7C-7 et seq.). A vessel that has been
14 abandoned at a public or private boat dock, pier, or marina is
15 considered abandoned in the harbor or waterfront.

16 (cf: P.L.1940, c.161, s.2)

17

18 23. (New section) a. A municipality may adopt an ordinance,
19 or a harbor commission may adopt a resolution, requiring every
20 owner or operator of a vessel that moors or docks in a municipal
21 waterway, or grounds on land, under the control of the municipality
22 or harbor commission, to register with the official designated by the
23 ordinance or resolution to have jurisdiction over the public land or
24 municipal waterway where the vessel is moored, grounded, or
25 docked. The registration shall include the length of time the vessel
26 is intended to remain at the location along with the home address
27 and telephone number of the owner or operator of the vessel, and a
28 local address and telephone number where the owner or operator
29 can be contacted.

30 b. If an ordinance or resolution has been adopted pursuant to
31 subsection a. of this section, then notice shall be posted around the
32 harbor, municipal waterway, navigable stream, or public land
33 stating where the owner or operator of a vessel shall register the
34 required information.

35 c. The ordinance or resolution shall designate one or more
36 holding areas, public or private, at which vessels in violation of the
37 registration requirement may be held.

38 d. After a vessel has been moored, grounded, or docked
39 without registration for a period of one week, an enforcement
40 official acting for or on behalf of the municipality or harbor
41 commission, may affix a notice on the vessel advising that if the
42 vessel is not removed by the date indicated on the notice, which
43 shall be no less than seven calendar days following the date that the
44 notice is affixed, then the vessel, including any trailer upon which a
45 grounded vessel has been placed, will be removed to a holding area.

46 e. No public entity, agents or authorized representatives shall
47 be held liable for any damage or loss to any vessel or its contents

1 that is removed to a holding area and stored pursuant to the
2 authority of this section.

3 f. An owner or operator who violates the provisions of an
4 ordinance or resolution adopted pursuant to this section shall be
5 subject to a fine of not less than \$100 or more than \$1,250, or
6 imprisonment for a period not to exceed six months, or both. Each
7 day upon which the violation continues shall constitute a separate
8 offense. The imposition of a fine under this section shall be
9 enforceable in municipal court.

10

11 24. This act shall take effect on the first day of the third month
12 after enactment, but such anticipatory administrative action may be
13 taken in advance thereof as shall be necessary for the
14 implementation of this act.

15

16

17

STATEMENT

18

19 This bill would revise the statutes concerning abandoned vessels
20 to include sunken vessels, make easier the removal of a sunken or
21 abandoned vessel from a municipal waterway or land, and increase
22 the penalties for the violation of current law concerning the
23 abandonment of a vessel to or upon public land or waters of the
24 State, including a municipal waterway or municipally owned land.

25 The bill revises the existing law that makes it unlawful for an
26 owner of a vessel to abandon that vessel to or upon any public land
27 or waters of the State to clarify that the latter include a municipal
28 waterway or municipally owned land, and provides that a vessel
29 owner who does so shall be guilty of a disorderly persons offense
30 and subject to a fine of not more than \$1,000 or imprisonment for a
31 period not to exceed six months, or both. The bill would remove
32 the current statutory requirement that such an action be willful in
33 order for it to be unlawful. The bill also would provide that a vessel
34 that has been docked without consent for a period of seven days, or
35 that is submerged partially or completely into the water for any
36 period of time, shall be prima facie evidence of abandonment and
37 shall establish a rebuttable presumption that the vessel is
38 abandoned.

39 The bill also provides that a vessel that is abandoned may be
40 removed from a municipal waterway by, or at the direction of, a
41 municipality or harbor commission at any time.

42 The bill also specifies that municipalities and harbor
43 commissions are included among the entities authorized to obtain
44 title to a sunken or abandoned vessel, and then to remove or destroy
45 the vessel, and recoup those costs from the vessel owner. A person
46 who does not pay the cost of removal or destruction would be guilty
47 of a disorderly persons offense and subject to a fine of not more

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1 than \$1,000 or imprisonment for a period not to exceed 6 months, or
2 both.

3 The bill amends the law authorizing the New Jersey Motor
4 Vehicle Commission to issue or renew a license to operate a vessel,
5 or a vessel registration, to any person who abandons a vessel by
6 making such issuance or renewal contingent upon notification from
7 the appropriate municipality or harbor commission that all
8 outstanding charges for the removal, destruction or storage of a
9 sunken or abandoned vessel have been satisfied. The bill increases
10 the restoration fee to be paid to the New Jersey Motor Vehicle
11 Commission from \$50 to \$100.

12 The bill also allows a court to revoke or suspend the privilege of
13 a person to operate a power vessel if the person has been convicted
14 of abandoning a vessel or not paying any outstanding charges for
15 vessel removal, storage and destruction costs, and those costs have
16 not been satisfied.

17 Finally, the bill authorizes a municipality to adopt an ordinance,
18 or a harbor commission to adopt a resolution, requiring every owner
19 or operator of a vessel that moors or docks in water, or grounds on
20 land, under the control of the municipality or harbor or waterfront
21 commission, to register with the official designated by the
22 ordinance or resolution to have jurisdiction over the public land or
23 waterway where the vessel is moored, grounded, or docked. The
24 registration must include the length of time the vessel is intended to
25 remain at the location along with the home address and telephone
26 number of the owner or operator of the vessel, and a local address
27 and telephone number where the owner or operator can be
28 contacted.

29 The ordinance or resolution must designate one or more holding
30 areas, public or private, at which vessels in violation of the
31 registration requirement may be held. After a vessel has been
32 moored, grounded, or docked without registration for a period of
33 one week, an enforcement official acting for or on behalf of the
34 municipality or harbor commission may affix a notice on the vessel
35 advising that if the vessel is not removed by the date indicated on
36 the notice, which shall be no less than seven calendar days
37 following the date that the notice is affixed, then the vessel,
38 including any trailer upon which a grounded vessel has been placed,
39 will be removed to a holding area. An owner or operator who
40 violates the provisions of an ordinance or resolution adopted
41 pursuant to the bill will be subject to a fine of not less than \$100 or
42 more than \$1,250, or imprisonment for a period of 6 months, or
43 both, enforceable in municipal court.

SENATE TRANSPORTATION COMMITTEE

STATEMENT TO

SENATE, No. 1390

with committee amendments

STATE OF NEW JERSEY

DATED: MARCH 10, 2008

The Senate Transportation Committee reports favorably Senate Bill No. 1390 with committee amendments.

This amended bill would revise the statutes concerning abandoned vessels to include sunken vessels, make easier the removal of a sunken or abandoned vessel from a municipal waterway or land, and increase the penalties for the violation of current law concerning the abandonment of a vessel to or upon public land or waters of the State, including a municipal waterway or municipally owned land.

The bill revises the existing law that makes it unlawful for an owner of a vessel to abandon that vessel to or upon any public land or waters of the State to clarify that the latter includes a municipal waterway or municipally owned land, and provides that a vessel owner who does so shall be subject to civil penalty of not more than \$1,000. The bill would remove the current statutory requirement that such an action be willful in order for it to be unlawful. The bill also would provide that a vessel that has been docked without consent for a period of seven days, or that is submerged partially or completely into the water for any period of time, shall be impounded if a municipal waterways regulatory officer or a law enforcement officer has reason to believe the vessel has been abandoned. The vessel may be removed from a municipal waterway by, or at the direction of, a municipality or harbor commission. The owner shall be responsible for the cost of the removal and storage of the impounded vessel.

The bill also specifies that municipalities and harbor commissions are included among the entities authorized to institute proceedings to obtain title to a sunken or abandoned vessel, and then to remove or destroy the vessel, and recoup those costs from the vessel owner. The bill provides a procedure for the owner of an abandoned vessel to reclaim possession prior to acquisition of title. A person who does not pay the cost of removal would be subject to a civil penalty of not more than \$1,000.

The bill amends the law authorizing the New Jersey Motor Vehicle Commission to issue or renew a license to operate a vessel, or a vessel registration, to any person who abandons a vessel by making such issuance or renewal contingent upon notification from the appropriate

municipality or harbor commission that all outstanding charges for the removal, destruction or storage of a sunken or abandoned vessel have been satisfied. The bill increases the restoration fee to be paid to the New Jersey Motor Vehicle Commission from \$50 to \$100.

The bill also allows a court to revoke or suspend the privilege of a person to operate a power vessel if the person has been found to have abandoned a vessel and has not satisfied all outstanding charges for vessel removal, storage and destruction costs.

Finally, the bill authorizes a municipality to adopt an ordinance, or a harbor commission to adopt a resolution, requiring every owner or operator of a vessel that moors or docks in water, or grounds on land, under the control of the municipality or harbor or waterfront commission, to register with the official designated by the ordinance or resolution to have jurisdiction over the public land or waterway where the vessel is moored, grounded, or docked. The registration must include the length of time the vessel is intended to remain at the location along with the home address and telephone number of the owner or operator of the vessel, and a local address and telephone number where the owner or operator can be contacted.

The ordinance or resolution must designate one or more holding areas, public or private, at which vessels in violation of the registration requirement may be held. After a vessel has been moored, grounded, or docked without registration for a period of one week, an enforcement official acting for or on behalf of the municipality or harbor commission may affix a notice on the vessel advising that if the vessel is not removed by the date indicated on the notice, which shall be no less than seven calendar days following the date that the notice is affixed, then the vessel, including any trailer upon which a grounded vessel has been placed, will be removed to a holding area. An owner or operator who violates the provisions of an ordinance or resolution adopted pursuant to the bill will be subject to a civil penalty of not less than \$100 nor more than \$1,250.

The committee amended the bill to provide that instead of a person being found guilty of a disorderly persons offense for violating various sections of law amended in the bill, the person would be subject to a civil penalty of not more than \$1,000. In the case of violating section 23 of the bill concerning municipal ordinances and harbor commission resolutions, the civil penalty is not less than \$100 nor more than \$1,250. The amendments also provide the procedures for the collection of these civil penalties and provide that the penalty shall be paid into the treasury of the municipality in which the violation occurred.

The amendments remove the provision that provides for prima facie evidence of abandonment in favor of a provision that an abandoned or sunken vessel may be impounded if the enforcing official or officer has reason to believe the vessel has been abandoned. The prima facie provision is applied to the situation in which a person

fails to claim the impounded vessel and pay the costs of removal or storage. In that case such failure shall be prima facie evidence of abandonment and shall establish a rebuttable presumption that the vessel is abandoned. The amendments also deal with the process of acquiring and transferring title to a landowner, municipality or harbor commission and reclaiming possession of the abandoned vessel by the owner of the vessel prior to final transfer of title.

The committee also amended the synopsis to indicate that municipalities are not the only entity with the authority to remove abandoned vessels and to clarify that the bill provides that such vessels may be removed from various locations, not just municipal waterways.

ASSEMBLY TRANSPORTATION, PUBLIC WORKS AND
INDEPENDENT AUTHORITIES COMMITTEE

STATEMENT TO

[First Reprint]

SENATE, No. 1390

with committee amendments

STATE OF NEW JERSEY

DATED: MAY 12, 2008

The Assembly Transportation, Public Works and Independent Authorities Committee reports favorably and with amendments Senate Bill No. 1390 (1R).

As reported, this amended bill would revise the statutes concerning abandoned vessels to include sunken vessels, make easier the removal of a sunken or abandoned vessel from a municipal waterway or land, and increase the penalties for violation of current law concerning the abandonment of a vessel to or upon public land or waters of the State, including a municipal waterway or municipally owned land.

The bill revises the existing law that makes it unlawful for an owner of a vessel to abandon that vessel to or upon any public land or waters of the State to clarify that the latter includes a municipal waterway or municipally owned land, and provides that a vessel owner who does so shall be subject to civil penalty of not more than \$1,000. The bill would remove the current statutory requirement that such an action be willful in order for it to be unlawful. The bill also would provide that a vessel that has been docked without consent for a period of seven days, or that is submerged partially or completely into the water for any period of time, may be impounded if a municipal waterways regulatory officer or a law enforcement officer has reason to believe the vessel has been abandoned. The vessel may be removed from a municipal waterway by, or at the direction of, a municipality or harbor commission. The owner shall be responsible for the cost of the removal and storage of the impounded vessel.

The bill also specifies that municipalities and harbor commissions are included among the entities authorized to institute proceedings to obtain title to a sunken or abandoned vessel, and then to remove or destroy the vessel, and recoup those costs from the vessel owner. The bill provides a procedure for the owner of an abandoned vessel to reclaim possession prior to acquisition of title. A person who does not pay the cost of removal would be subject to a civil penalty of not more than \$1,000.

The bill amends the law authorizing the New Jersey Motor Vehicle Commission to issue or renew a license to operate a vessel, or a vessel registration, to any person who abandons a vessel by making such issuance or renewal contingent upon notification from the appropriate municipality or harbor commission that all outstanding charges for the removal, destruction or storage of a sunken or abandoned vessel have been satisfied. The bill increases the restoration fee to be paid to the New Jersey Motor Vehicle Commission from \$50 to \$100.

The bill also allows a court to revoke or suspend the privilege of a person to operate a power vessel if the person has been found to have abandoned a vessel and has not satisfied all outstanding charges for vessel removal, storage and destruction costs.

Finally, the bill authorizes a municipality to adopt an ordinance, or a harbor commission to adopt a resolution, requiring every owner or operator of a vessel that moors or docks in water, or grounds on land, under the control of the municipality or harbor or waterfront commission, to register with the official designated by the ordinance or resolution to have jurisdiction over the public land or waterway where the vessel is moored, grounded, or docked. The registration must include the length of time the vessel is intended to remain at the location along with the home address and telephone number of the owner or operator of the vessel, and a local address and telephone number where the owner or operator can be contacted.

The ordinance or resolution must designate one or more holding areas, public or private, at which vessels in violation of the registration requirement may be held. After a vessel has been moored, grounded, or docked without registration for a period of one week, an enforcement official acting for or on behalf of the municipality or harbor commission may affix a notice on the vessel advising that if the vessel is not removed by the date indicated on the notice, which shall be no less than seven calendar days following the date that the notice is affixed, then the vessel, including any trailer upon which a grounded vessel has been placed, will be removed to a holding area. An owner or operator who violates the provisions of an ordinance or resolution adopted pursuant to the bill will be subject to a civil penalty of not less than \$100 nor more than \$1,250.

COMMITTEE AMENDMENTS

The committee amended the bill to provide that a vessel that has been docked without consent for a period of seven days, or that is submerged partially or completely into the water for any period of time, may, rather than shall, be impounded if a municipal waterways regulatory officer or a law enforcement officer has reason to believe the vessel has been abandoned.

The committee amended the bill to clarify that it shall not be unlawful for an individual to abandon a vessel on certain property if an emergency exists.

The committee amended the bill to clarify that the owner, as defined in the bill, is the only person authorized to claim title to a vessel impounded under the provisions of the bill. The committee also amended the bill to clarify who has the authority to reclaim an abandoned vessel and which parties are liable for certain vessel storage and removal costs.

The committee amended the bill to provide that nothing shall prevent the operator of a vessel from anchoring, grounding, or mooring a vessel in certain locations if an emergency exists that requires such action to be taken.

The committee also made technical amendments to the bill to correct punctuation and grammar.

As reported with amendments, Senate Bill No. 1390 (1R) is identical to Assembly Committee Substitute for Assembly Bill No. 1796, which was also reported by the committee on this date.

ASSEMBLY, No. 1796

STATE OF NEW JERSEY 213th LEGISLATURE

INTRODUCED JANUARY 24, 2008

Sponsored by:

Assemblyman NELSON T. ALBANO

District 1 (Cape May, Atlantic and Cumberland)

Assemblyman MATTHEW W. MILAM

District 1 (Cape May, Atlantic and Cumberland)

SYNOPSIS

Revises statutes concerning abandoned vessels to include sunken vessels; authorizes municipalities to remove abandoned vessels from municipal waterways.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 5/6/2008)

1 AN ACT concerning sunken or abandoned vessels, amending and
2 supplementing P.L.1975, c.369, and amending various sections
3 of statutory law.

4
5 **BE IT ENACTED** by the Senate and General Assembly of the State
6 of New Jersey:

7
8 1. Section 4 of P.L.1962, c.73 (C.12:7-34.39) is amended to
9 read as follows:

10 4. (a) The owner of a vessel required to be numbered in this
11 State shall file an application with the **[division]** New Jersey Motor
12 Vehicle Commission on forms approved by it. The application
13 shall be signed by the owner and shall be accompanied by the fee
14 prescribed by this act for such vessel. Upon receipt of the
15 application in the approved form and the prescribed fee, the
16 **[division]** commission shall enter the same upon the records of its
17 office and issue to the applicant a pocket-size, laminated or
18 otherwise water resistant certificate of number, which shall state the
19 name and address of the owner, a description of the vessel, its use,
20 and the number assigned.

21 (b) Except as provided herein, the certificate of number shall be
22 available at all times for inspection on the vessel for which issued
23 whenever such vessel is in operation. The certificate of number for
24 vessels less than 26 feet in length and leased or rented to another for
25 the latter's noncommercial use of less than 24 hours may be retained
26 on shore by the vessel's owner or his representative at the place
27 from which the vessel departs or returns to the possession of the
28 owner or his representative; provided such substitute as the director
29 may prescribe by regulation is carried on board.

30 (c) The number assigned to a vessel shall be displayed on each
31 side of the bow thereof, as prescribed by regulations of the
32 **[division]** commission, using letters and numerals not less than
33 three inches in height; except that this provision shall not apply to a
34 one-design class racing sailboat, without power installed either
35 inboard or outboard, which is required to be numbered under
36 section 3 of P.L.1962, c.73 (C.12:7-34.38). No other number shall
37 be displayed on the bow.

38 (d) No application for a vessel number shall be approved if the
39 applicant or owner has been convicted of a violation of section 3 of
40 P.L.1975, c.369 (C.12:7C-9) (as amended by section 12 of this bill)
41 or subsection b. of section 10 of P.L.1975, c.369 (C.12:7C-16) (as
42 amended by section 13 of this bill), until the commission has been
43 notified by the appropriate municipality or harbor commission that
44 all outstanding charges for vessel removal, storage, and destruction

EXPLANATION – Matter enclosed in bold-faced brackets **[thus]** in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 costs have been satisfied.
2 (cf: P.L.1995, c.401, s.21)

3

4 2. Section 3 of P.L.1995, c.401 (C.12:7-72) is amended to read
5 as follows:

6 3. a. (1) Upon proper application therefor, the **[director]** Chief
7 Administrator of the New Jersey Motor Vehicle Commission shall
8 license a person to operate a power vessel on the nontidal waters of
9 this State. A person shall not make any misstatement of fact in an
10 application for a power vessel operator's license.

11 (2) The New Jersey Motor Vehicle Commission shall not issue
12 or renew the license of any person who has been found guilty of an
13 offense pursuant to section 10 of P.L.1975, c.369 (C.12:7C-16) (as
14 amended by section 13 of this bill), until the commission has been
15 notified by the appropriate municipality or harbor commission that
16 all outstanding charges for vessel removal, storage, and destruction
17 costs have been satisfied.

18 b. Except as provided pursuant to subsections c. and g. of this
19 section:

20 (1) A person shall not operate a power vessel on the nontidal
21 waters of this State without being licensed by the director; and

22 (2) A person under 16 years of age shall not be licensed to
23 operate a power vessel on the nontidal waters of this State.

24 c. A person is not required to be licensed pursuant to
25 subsection b. of this section when operating a power vessel:

26 (1) powered solely by a motor of less than one horsepower or an
27 electric motor of 12 volts or less;

28 (2) that is 12 feet or greater in length and powered by a motor,
29 or combination of motors, of less than 10 horsepower;

30 (3) while actually competing in an authorized race held under
31 the auspices of a duly incorporated yacht club or racing association
32 in accordance with rules and regulations prescribed by the Division
33 of State Police in the Department of Law and Public Safety and
34 pursuant to a permit duly issued by that division;

35 (4) if the person is an out-of-State resident and has written
36 proof, while operating the power vessel, of successful completion of
37 a boat safety course substantially similar to the boat safety course
38 administered pursuant to section 1 of P.L.1987, c.453 (C.12:7-60).

39 d. Except as provided pursuant to subsection c. of this section,
40 a person shall have in his possession a proper license at all times
41 when operating a power vessel on nontidal waters and shall exhibit
42 the license to any law enforcement officer upon request. Failure of
43 a person to exhibit such license upon request shall be presumptive
44 evidence that the person is not a licensed operator.

45 e. A person who violates the provisions of subsection b. of this
46 section shall be subject to a fine of not more than \$500 or to a term
47 of imprisonment not to exceed 60 days, or both, except that:

1 (1) A person who has never been licensed to operate a power
2 vessel on the nontidal waters of this State or any other jurisdiction
3 shall be subject to a fine of not less than \$200 and, in addition, the
4 court shall issue an order to the **Director of the Division of Motor**
5 **Vehicles** Chief Administrator of the New Jersey Motor Vehicle
6 Commission requiring the director to refuse to issue a license to
7 operate a power vessel on the nontidal waters of this State to that
8 person for a period of not less than 180 days; and

9 (2) A person who can exhibit to the court before which the
10 person is summoned to answer to the charge a valid operator's
11 license issued to that person which was valid on the day that person
12 was charged shall be subject to a fine of not more than \$100, in
13 addition to any reasonable court costs the court may impose.
14 Notwithstanding the provisions of this subsection, the court may, in
15 its discretion, dismiss a charge regarding the failure to exhibit an
16 operator's license brought pursuant to the provisions of this section.

17 f. The penalties provided for pursuant to subsection e. of this
18 section shall not be applicable in cases where failure to have actual
19 possession of the operator's license is due to an administrative or
20 technical error by the **Division of Motor Vehicles** New Jersey
21 Motor Vehicle Commission.

22 g. A person who is under 16 years of age and was issued an
23 operator's license pursuant to section 7 of P.L.1954, c.236 (C.12:7-
24 34.7) before July 1, 1996 may operate a power vessel equipped with
25 an outboard motor until the expiration date of that license.

26 (cf: P.L.1997, c.152, s.1)

27

28 3. Section 13 of P.L.1995, c.401 (C.12:7-82) is amended to read
29 as follows:

30 13. a. A court may revoke or suspend the privilege of a person
31 to operate a power vessel if that person has been convicted of
32 homicide in connection with the operation of a motor vehicle or of
33 operating a motor vehicle while under the influence of intoxicating
34 liquor or a narcotic, hallucinogenic or habit producing drug.

35 b. A court may revoke or suspend the privilege of a person to
36 operate a power vessel if that person has been charged with a
37 homicide in connection with the operation of a motor vehicle or of
38 operating a vessel or motor vehicle while under the influence of
39 intoxicating liquor or a narcotic, hallucinogenic or habit producing
40 drug, pending disposition of that charge, or for any other violation
41 of any of the provisions of chapter 7 of Title 12 of the Revised
42 Statutes or of any rule or regulation prescribed thereunder by the
43 director or the commission.

44 c. A court shall revoke or suspend the privilege of a person to
45 operate a power vessel if that person has been charged with or
46 convicted of homicide in connection with the operation of a vessel.

47 d. When a person's privilege to operate a power vessel is
48 revoked or suspended, that person shall have an opportunity to be

1 heard. Attendance of witnesses to such hearing may be compelled
2 by subpoena.

3 e. Failure of the licensee or any other person possessing the
4 license card to deliver the same to the suspending or revoking court,
5 or the director if so ordered, shall constitute a violation. A court
6 that suspends or revokes a license shall promptly place the license
7 card in the custody of the **[division]** New Jersey Motor Vehicle
8 Commission, except when the **[division]** commission shall
9 otherwise direct.

10 f. The **[division]** New Jersey Motor Vehicle Commission shall
11 have the exclusive power to restore a person's privilege to operate a
12 power vessel and may restore that privilege after the person pays to
13 the **[director]** chief administrator a **[\$50]** \$100 restoration fee.
14 Unless otherwise specified, whenever a license is revoked pursuant
15 to this section a new license shall not be issued to the person whose
16 license is revoked for at least six months after the date of such
17 revocation, as determined by the **[director]** chief administrator.

18 g. The court may revoke or suspend the privilege of a person to
19 operate a power vessel if that person has been convicted of an
20 offense under section 3 of P.L.1975, c.369 (C.12:7C-9) (as amended
21 by section 12 of this bill) or subsection b. of section 10 of P.L.1975,
22 c.369 (C.12:7C-16) (as amended by section 13 of this bill), and
23 outstanding charges for vessel removal, storage, and destruction
24 costs have not been satisfied.

25 (cf: P.L.1995, c.401, s.13)

26

27 4. Section 1 of P.L.1975, c.369 (C.12:7C-7) is amended to read
28 as follows:

29 1. This act shall be known and may be cited as the "Abandoned
30 or Sunken Vessels Disposition Law."

31 (cf: P.L.1975, c.369, s.1)

32

33 5. Section 2 of P.L.1975, c.369 (C.12:7C-8) is amended to read
34 as follows:

35 2. The following terms whenever used or referred to in this act
36 shall have the following meanings unless a different meaning
37 clearly appears from the context:

38 a. "Vessel" means a boat, ship or any other watercraft,
39 regardless of whether it is, or was, used for recreational,
40 commercial or industrial purposes, or any other purpose, other than
41 a seaplane on the water, used or capable of being used as a means of
42 transportation on the water, except a boat or watercraft which is
43 subject to the provisions of P.L.1969, c.264 (C.12:7C-1 et seq.), and
44 includes any trailer used to transport or store it.

45 b. "Owner" means a person or any other legal entity, other than
46 a lienholder, having **[the]** a property interest in or title to a vessel.
47 The term includes a person entitled to the use or possession of a

1 vessel subject to an interest of another person, reserved or created
2 by agreement and securing payment or performance of an
3 obligation, but the term excludes a lessee under a lease not intended
4 as security.

5 c. "Lienholder" means any person or any other legal entity
6 holding a security interest in or to a vessel.

7 d. "Security interest" means an interest which is reserved or
8 created by an agreement which secures payment or performance of
9 an obligation and is valid against third parties generally.

10 e. ["Division" means the Division of Motor Vehicles in the
11 Department of Transportation] "Commission" means the New
12 Jersey Motor Vehicle Commission.

13 f. "Waters of this State" means all waters within the
14 jurisdiction of this State, both tidal and nontidal, and the marginal
15 sea adjacent to this State to a distance of three nautical miles from
16 the shoreline.

17 g. "Removal costs" means any or all costs associated with the
18 removal, raising, towing, transporting, cleaning, storage, or
19 destruction of any vessel from land or water and shall include the
20 reimbursement of any or all costs incurred by the applicant in the
21 course of acquiring title to an abandoned vessel, including acquiring
22 title to any trailer abandoned with the vessel.

23 h. "Municipal waterway" means any portion of a body of water
24 located within a municipality or any portion of a body of water over
25 which a municipality or harbor commission legally exercises
26 jurisdiction.

27 (cf: P.L.1995, c.401, s.46)

28

29 6. Section 3 of P.L.1975, c.369 (C.12:7C-9) is amended to read
30 as follows:

31 3. a. It shall be unlawful for any **[person]** owner to **[willfully]**
32 abandon any vessel to or upon public land or waters of this State,
33 including any municipal waterway, to or upon any municipally-
34 owned land, or to or upon any private property or the water
35 immediately adjacent thereto without the consent of the official
36 designated by law to have jurisdiction over such public land or
37 waterway, or the owner or other person in charge of the private
38 property. A vessel which has remained moored, grounded, docked,
39 or otherwise attached or fastened to or upon any public land or
40 waterway or any private property without such consent for a period
41 of more than **[6 months]** seven days, or which is submerged
42 partially or completely into the water for any period of time, shall
43 be prima facie evidence of such abandonment and shall establish a
44 rebuttable presumption that the vessel is abandoned.

45 b. (1) A vessel that is abandoned may be removed from a
46 municipal waterway by, or at the direction of, the municipality or
47 harbor commission at any time.

1 (2) Whenever a vessel is removed pursuant to paragraph (1) of
2 this subsection, the official designated by law to have jurisdiction
3 over the municipal waterway shall file an incident report with the
4 Motor Vehicle Commission in the Department of Transportation.

5 c. (1) An owner who violates the requirements of subsection a.
6 of this section shall be guilty of a disorderly persons offense and
7 shall be subject to a fine of not more than \$1,000 or imprisonment
8 for a period not to exceed six months, or both. Each day upon
9 which the violation continues shall constitute a separate offense.
10 The municipal court for the municipality in which the offense
11 occurs shall have jurisdiction to enforce the provisions of this
12 section.

13 (2) The municipal court clerk shall report to the New Jersey
14 Motor Vehicle Commission any person found guilty pursuant to
15 paragraph (1) of this subsection.

16 (cf: P.L.1975, c.369, s.3)

17
18 7. Section 4 of P.L.1975, c.369 (C.12:7C-10) is amended to
19 read as follows:

20 4. A landowner, his lessee, or his agent, or a municipality or
21 harbor commission, in the case of a municipal waterway, may,
22 subject to the provisions of [this act] P.L.1975, c.369 (C.12:7C-7 et
23 seq.), acquire title to any abandoned vessel on his land or the water
24 immediately adjacent thereto [, which has been abandoned] in the
25 case of a landowner, his lessee or his agent, or which has become
26 abandoned in a municipal waterway, in the case of a municipality or
27 harbor commission, according to the provisions of section 3 of [this
28 act] P.L.1975, c.369 (C.12:7C-9). The acquisition of title divests
29 any other person and any other legal entity, including lienholders,
30 of any interest in the vessel.

31 (cf: P.L.1975, c.369, s.4)

32
33 8. Section 5 of P.L.1975, c.369 (C.12:7C-11) is amended to
34 read as follows:

35 5. If a vessel has a boat registration number or other means of
36 identifying the owner thereof, the person, entity, municipality, or
37 harbor commission desiring to acquire title, shall, if possible, secure
38 the owner's last known address, and the lienholder, if any,
39 appearing on the records of the [division. He] New Jersey Motor
40 Vehicle Commission, and shall notify the owner by registered letter
41 to his last known address and the lienholder by registered letter at
42 the address of the lienholder appearing on the records of the
43 [division] commission that if ownership is not claimed and the
44 vessel removed within 30 days, title to the vessel will be applied for
45 in his or its name, or in the name of the municipality, or harbor
46 commission, as appropriate. If any vessel's owner cannot be
47 identified or his address ascertained, or no lienholder appears on the

1 records of the **[division]** commission, the registered letter need not
2 be sent.

3 (cf: P.L.1995, c.401, s.47)

4

5 9. Section 6 of P.L.1975, c.369 (C.12:7C-12) is amended to
6 read as follows:

7 6. The person, entity, municipality, or harbor commission
8 desiring to acquire title shall also place a notice in a newspaper of
9 general circulation published in the county or **[city]** municipality
10 where the vessel is located, describing the vessel, its location of
11 **[apparent]** abandonment, any identifying number, and shall state if
12 the vessel is not claimed and removed within 30 days after the
13 publication date of the notice, **[he]** the person, entity, municipality,
14 or harbor commission, as the case may be, will apply for title to the
15 vessel in **[his]** the person's, entity's, municipality's, or harbor
16 commission's name.

17 (cf: P.L.1975, c.369, s.6)

18

19 10. Section 7 of P.L.1975, c.369 (C.12:7C-13) is amended to
20 read as follows:

21 7. At the end of the 30-day period the person, entity,
22 municipality, or harbor commission desiring to acquire title shall
23 apply to the **[division]** New Jersey Motor Vehicle Commission for
24 a title to the vessel in **[his]** the person's, entity's, municipality's, or
25 harbor commission's name on forms approved by the **[division]**
26 commission accompanied by the following affidavits:

27 a. A statement that the vessel has been **[apparently]** abandoned
28 **[for at least six months]**.

29 b. Proof that the registered letter was mailed at least 30 days
30 before application or a detailed explanation of the unsuccessful
31 steps taken to identify and secure the address of the owner or
32 lienholder, or both **[and secure his address]**.

33 c. Proof that a notice was printed in a paper as required in
34 section 6 of P.L.1975, c.369 (C.12:7C-12).

35 (cf: P.L.1995, c.401, s.48)

36

37 11. Section 8 of P.L.1975, c.369 (C.12:7C-14) is amended to
38 read as follows:

39 8. Upon receipt of the material required in section 7 of
40 P.L.1975, c.369 (C.12:7C-13) and upon payment of any fees and
41 taxes due, the **[division]** commission shall issue the applicant a title
42 to the vessel.

43 (cf: P.L.1995, c.401, s.49)

44

45 12. Section 9 of P.L.1975, c.369 (C.12:7C-15) is amended to
46 read as follows:

1 9. All costs incurred in receiving title to a vessel under **[this**
2 **section]** P.L.1975, c.369 (C.12:7C-7 et seq.) shall be borne by the
3 applicant. In the case of an applicant that is a municipality or a
4 harbor commission, the applicant may recover all costs incurred in
5 receiving title to an abandoned vessel from the previous owner of
6 the vessel in the same manner as the recovery of the removal or
7 destruction costs authorized under subsection a. of section 10 of
8 P.L.1975, c.369 (C.12:7C-16) (as amended by section 13 of this
9 bill).

10 (cf: P.L.1975, c.369, s.9)

11
12 13. Section 10 of P.L.1975, c.369 (C.12:7C-16) is amended to
13 read as follows:

14 10. a. After receiving title if the applicant desires to remove an
15 abandoned vessel from **[his]** the applicant's land or the water
16 immediately adjacent thereto, or from a municipal waterway or land
17 owned by the municipality, or to destroy such vessel, **[the removal]**
18 any costs incurred by the applicant shall be borne by the previous
19 owner of **[said]** the vessel, provided that **[such]** the owner shall
20 have been identified pursuant to sections 5 or 6 of **[this act]**
21 P.L.1975, c.369 (C.12:7C-11 or C.12:7C-12) (as amended by
22 sections 8 and 9 of this bill).

23 b. (1) A previous owner who does not pay the removal cost of
24 the vessel, or who does not reimburse the applicant for the removal
25 cost of the vessel, is guilty of a disorderly persons offense and shall
26 be subject to a fine of not more than \$1,000 or imprisonment for a
27 period not to exceed 6 months, or both, in addition to any penalty
28 that may be imposed under section 3 of P.L.1975, c.369 (C.12:7C-
29 9) (as amended by section 6 of this bill). The municipal court for
30 the municipality in which the offense occurs shall have jurisdiction
31 to enforce the provisions of this section.

32 (2) The municipal court clerk shall report to the New Jersey
33 Motor Vehicle Commission any previous owner found guilty
34 pursuant to paragraph (1) of this subsection.

35 (cf: P.L.1975, c.369, s.10)

36
37 14. Section 11 of P.L.1975, c.369 (C.12:7C-17) is amended to
38 read as follows:

39 11. After receiving title if the applicant destroys or otherwise
40 disposes of the vessel, **[he]** the applicant shall report the same to
41 the **[division]** commission within 15 days giving all details.

42 (cf: P.L.1995, c.401, s.50)

43
44 15. Section 12 of P.L.1975, c.369 (C.12:7C-18) is amended to
45 read as follows:

46 12. The **[division]** commission may receive title to any vessel
47 abandoned on any of the waters of this State, including municipal

1 waterways, or on any land owned by this State or any of its political
2 subdivisions by proceeding in the same manner as a landowner, his
3 lessee, or his agent, or a municipality, or a harbor commission, as
4 set forth in **[this act]** P.L.1975, c.369 (C.12:7C-7 et seq.).

5 (cf: P.L.1995, c.401, s.51)

6
7 16. Section 13 of P.L.1975, c.369 (C.12:7C-19) is amended to
8 read as follows:

9 13. **[a.** Any person who violates section 3 of P.L.1975, c.369
10 (C.12:7C-9) shall be subject to a fine of not less than \$500 and not
11 more than \$1,000 to be recovered in a summary proceeding
12 instituted by the Attorney General in the name of the State in
13 accordance with the "the penalty enforcement law" (N.J.S.2A:58-1
14 et seq.).

15 b. **]**Any person who obtains or attempts to obtain title to a
16 vessel under the provisions of **[this act]** P.L.1975, c.369 (C.12:7C-
17 7 et seq.) through fraudulent means is guilty of a disorderly persons
18 offense and upon conviction shall be subject to a fine of not more
19 than **[\$200]** \$1,000.

20 (cf: P.L.1995, c.401, s.52)

21
22 17. Section 14 of P.L.1975, c.369 (C.12:7C-20) is amended to
23 read as follows:

24 14. The **[division]** commission may promulgate pursuant to the
25 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
26 seq.) such rules and regulations deemed necessary to carry out the
27 provisions of **[this act]** P.L.1975, c.369 (C.12:7C-7 et seq.), as
28 amended and supplemented by P.L. , c. (C.) (pending before
29 the Legislature as this bill).

30 (cf: P.L.1995, c.401, s.53)

31
32 18. R.S.40:14-3 is amended to read as follows:

33 40:14-3. Whenever any one or more counties and municipalities
34 shall have flowing through their respective boundaries and borders,
35 any inland waterways or navigable stream, and it shall be deemed to
36 the advantage of any two or more of said counties and
37 municipalities, to improve such inland waterways or streams by
38 increasing their depth or width or both, they may, acting together
39 advertise for bids for the doing of such work, and enter into a joint
40 contract therefor. The improvement of inland waterways or
41 navigable streams includes the raising, recovery, towing, removal,
42 storage, destruction, and disposal of vessels that have been
43 abandoned in an inland waterway or navigable stream, as
44 appropriate, pursuant to the procedures applicable to municipal
45 waterways in the "Abandoned or Sunken Vessels Disposition Law,"
46 P.L.1975, c.369 (C.12:7C-7 et seq.) (as amended by sections 4
47 through 17, and supplemented by section 23 of this bill). A vessel

1 that has been abandoned at a public or private marina, pier, or boat
2 dock located in an inland waterway or navigable stream is
3 considered abandoned in that inland waterway or navigable stream.
4 (cf: R.S.40:14-3)

5
6 19. R.S.40:14-4 is amended to read as follows:

7 40:14-4. Whenever the work of increasing the depth or width or
8 both of such inland waterways or navigable stream is contemplated,
9 each county and municipality desiring to enter into the project shall,
10 by its board or body having control of such waterway or navigable
11 stream, introduce and pass a resolution, declaring the advisability of
12 so doing.

13 The resolution shall set forth, in a general way, the work
14 proposed to be done and its estimated cost, and after all of the
15 counties and municipalities contemplating the doing of such work
16 have passed such a resolution, a proposed form of agreement shall
17 be prepared between them, setting forth the work or works to be
18 undertaken, the plans and specifications therefor, and the estimated
19 cost, together with the proportion of the cost thereof to be borne by
20 each, and any other provisions deemed necessary or proper, to be
21 inserted therein.

22 The work of removing abandoned vessels shall not require joint
23 action unless it is part of a program to remove more than three
24 abandoned vessels from the inland waterway or navigable stream.

25 (cf: R.S.40:14-4)

26
27 20. R.S.40:14-5 is amended to read as follows:

28 40:14-5. The work authorized and mentioned [herein] in
29 chapter 14 of Title 40 of the Revised Statutes (C.40:14-1 et seq.)
30 may be done either as a local or general improvement, and notice of
31 all proceedings shall be given as is required for such improvements
32 under chapter 56 of this title ([s.] R.S. 40:56-1 et seq.), except that
33 if the work concerns the raising, recovery, towing, removal, storage,
34 destruction, or disposal of an abandoned vessel, the local unit shall
35 charge those costs to the owner or operator of that vessel pursuant
36 to the "Abandoned or Sunken Vessels Disposition Law," P.L.1975,
37 c.369 (C.12:7C-7 et seq.) (as amended by sections 4 through 17,
38 and supplemented by section 23 of this bill).

39 (cf: R.S.40:14-5)

40
41 21. R.S.40:14-6 is amended to read as follows:

42 40:14-6. All work to be done pursuant to the provisions
43 **[hereof]** of chapter 14 of Title 40 of the Revised Statutes (C.40:14-
44 1 et seq.), shall be by contract let to the lowest responsible bidder
45 after advertisement for bids in accordance with the provisions of
46 **[chapter 50 of this title (s. 40:50-1 et seq.)]** the "Local Public
47 Contracts Law," P.L.1971, c.198 (C.40A:11-1 et seq.).

48 (cf: R.S.40:14-6)

1 22. Section 2 of P.L.1940, c.161 (C.40:68-23) is amended to
2 read as follows:

3 2. The commission so created shall be vested with such powers
4 and duties as shall be defined and designated by ordinance adopted
5 by the governing body of such municipality with respect to the
6 management, operation and control of the harbor and water front
7 owned or leased by said municipality, including the construction,
8 maintenance, operation and use of the harbor, water front, beach,
9 land and all properties, structures, piers, bulkheads and jetties
10 located upon lands owned or leased by the municipality and upon
11 lands owned or leased by the municipality contiguous to such
12 harbor, water front and beach. A commission is vested with the
13 power to raise, recover, tow, remove, store, destroy, and dispose of
14 vessels that have been abandoned in the harbor or waterfront, as
15 appropriate, pursuant to the procedures applicable to municipal
16 waterways in the "Abandoned or Sunken Vessels Disposition Law,"
17 P.L.1975, c.369 (C.12:7C-7 et seq.) (as amended by sections 1
18 through 14, and supplemented by section 20 of this bill). A vessel
19 that has been abandoned at a public or private boat dock, pier, or
20 marina is considered abandoned in the harbor or waterfront.
21 (cf: P.L.1940, c.161, s.2)

22
23 23. (New section) a. A municipality may adopt an ordinance,
24 or a harbor commission may adopt a resolution, requiring every
25 owner or operator of a vessel that moors or docks in a municipal
26 waterway, or grounds on land, under the control of the municipality
27 or harbor commission, to register with the official designated by the
28 ordinance or resolution to have jurisdiction over the public land or
29 municipal waterway where the vessel is moored, grounded, or
30 docked. The registration shall include the length of time the vessel
31 is intended to remain at the location along with the home address
32 and telephone number of the owner or operator of the vessel, and a
33 local address and telephone number where the owner or operator
34 can be contacted.

35 b. If an ordinance or resolution has been adopted pursuant to
36 subsection a. of this section, then notice shall be posted around the
37 harbor, municipal waterway, navigable stream, or public land
38 stating where the owner or operator of a vessel shall register the
39 required information.

40 c. The ordinance or resolution shall designate one or more
41 holding areas, public or private, at which vessels in violation of the
42 registration requirement may be held.

43 d. After a vessel has been moored, grounded, or docked
44 without registration for a period of one week, an enforcement
45 official acting for or on behalf of the municipality or harbor
46 commission, may affix a notice on the vessel advising that if the
47 vessel is not removed by the date indicated on the notice, which
48 shall be no less than seven calendar days following the date that the

1 notice is affixed, then the vessel, including any trailer upon which a
2 grounded vessel has been placed, will be removed to a holding area.

3 e. No public entity, agents or authorized representatives shall
4 be held liable for any damage or loss to any vessel or its contents
5 that is removed to a holding area and stored pursuant to the
6 authority of this section.

7 f. An owner or operator who violates the provisions of an
8 ordinance or resolution adopted pursuant to this section shall be
9 subject to a fine of not less than \$100 or more than \$1,250, or
10 imprisonment for a period not to exceed six months, or both. Each
11 day upon which the violation continues shall constitute a separate
12 offense. The imposition of a fine under this section shall be
13 enforceable in municipal court.

14

15 24. This act shall take effect on the first day of the third month
16 after enactment, but such anticipatory administrative action may be
17 taken in advance thereof as shall be necessary for the
18 implementation of this act.

19

20

21

STATEMENT

22

23 This bill would revise the statutes concerning abandoned vessels
24 to include sunken vessels, make easier the removal of a sunken or
25 abandoned vessel from a municipal waterway or land, and increase
26 the penalties for the violation of current law concerning the
27 abandonment of a vessel to or upon public land or waters of the
28 State, including a municipal waterway or municipally owned land.

29 The bill revises the existing law that makes it unlawful for an
30 owner of a vessel to abandon that vessel to or upon any public land
31 or waters of the State to clarify that the latter include a municipal
32 waterway or municipally owned land, and provides that a vessel
33 owner who does so shall be guilty of a disorderly persons offense
34 and subject to a fine of not more than \$1,000 or imprisonment for a
35 period not to exceed six months, or both. The bill would remove
36 the current statutory requirement that such an action be willful in
37 order for it to be unlawful. The bill also would provide that a vessel
38 that has been docked without consent for a period of seven days, or
39 that is submerged partially or completely into the water for any
40 period of time, shall be prima facie evidence of abandonment and
41 shall establish a rebuttable presumption that the vessel is
42 abandoned.

43 The bill provides that a vessel that is abandoned may be removed
44 from a municipal waterway by, or at the direction of, a municipality
45 or harbor commission at any time.

46 The bill also specifies that municipalities, and harbor
47 commissions are included among the entities authorized to obtain
48 title to a sunken or abandoned vessel, and then to remove or destroy

1 the vessel, and recoup those costs from the vessel owner. A person
2 who does not pay the cost of removal or destruction would be guilty
3 of a disorderly persons offense and subject to a fine of not more
4 than \$1,000 or imprisonment for a period not to exceed 6 months, or
5 both.

6 The bill amends the law authorizing the New Jersey Motor
7 Vehicle Commission to issue or renew a license to operate a vessel,
8 or a vessel registration, to any person who abandons a vessel by
9 making such issuance or renewal contingent upon notification from
10 the appropriate municipality or harbor commission that all
11 outstanding charges for the removal, destruction or storage of a
12 sunken or abandoned vessel have been satisfied. The bill increases
13 the restoration fee to be paid to the New Jersey Motor Vehicle
14 Commission from \$50 to \$100.

15 The bill also allows a court to revoke or suspend the privilege of
16 a person to operate a power vessel if the person has been convicted
17 of abandoning a vessel or not paying any outstanding charges for
18 vessel removal, storage and destruction costs, and those costs have
19 not been satisfied.

20 Finally, the bill authorizes a municipality to adopt an ordinance,
21 or a harbor commission to adopt a resolution, requiring every owner
22 or operator of a vessel that moors or docks in water, or grounds on
23 land, under the control of the municipality or harbor or waterfront
24 commission, to register with the official designated by the
25 ordinance or resolution to have jurisdiction over the public land or
26 waterway where the vessel is moored, grounded, or docked. The
27 registration must include the length of time the vessel is intended to
28 remain at the location along with the home address and telephone
29 number of the owner or operator of the vessel, and a local address
30 and telephone number where the owner or operator can be
31 contacted.

32 The ordinance or resolution must designate one or more holding
33 areas, public or private, at which vessels in violation of the
34 registration requirement may be held. After a vessel has been
35 moored, grounded, or docked without registration for a period of
36 one week, an enforcement official acting for or on behalf of the
37 municipality or harbor commission may affix a notice on the vessel
38 advising that if the vessel is not removed by the date indicated on
39 the notice, which shall be no less than seven calendar days
40 following the date that the notice is affixed, then the vessel,
41 including any trailer upon which a grounded vessel has been placed,
42 will be removed to a holding area. An owner or operator who
43 violates the provisions of an ordinance or resolution adopted
44 pursuant to the bill will be subject to a fine of not less than \$100 or
45 more than \$1,250, or imprisonment for a period of 6 months, or
46 both, enforceable in municipal court.

ASSEMBLY TRANSPORTATION, PUBLIC WORKS AND
INDEPENDENT AUTHORITIES COMMITTEE

STATEMENT TO

ASSEMBLY COMMITTEE SUBSTITUTE FOR
ASSEMBLY, No. 1796

STATE OF NEW JERSEY

DATED: MAY 12, 2008

The Assembly Transportation, Public Works and Independent Authorities Committee reports favorably Assembly Committee Substitute for Assembly Bill No. 1796.

As reported, this committee substitute would revise the statutes concerning abandoned vessels to include sunken vessels, make easier the removal of a sunken or abandoned vessel from a municipal waterway or land, and increase the penalties for violation of current law concerning the abandonment of a vessel to or upon public land or waters of the State, including a municipal waterway or municipally owned land.

The substitute bill revises the existing law that makes it unlawful for an owner of a vessel to abandon that vessel to or upon any public land or waters of the State to clarify that the latter includes a municipal waterway or municipally owned land, and provides that a vessel owner who does so shall be subject to civil penalty of not more than \$1,000. The substitute bill would remove the current statutory requirement that such an action be willful in order for it to be unlawful. The substitute bill also would provide that a vessel that has been docked without consent for a period of seven days, or that is submerged partially or completely into the water for any period of time, may be impounded if a municipal waterways regulatory officer or a law enforcement officer has reason to believe the vessel has been abandoned. The vessel may be removed from a municipal waterway by, or at the direction of, a municipality or harbor commission. The owner shall be responsible for the cost of the removal and storage of the impounded vessel.

The substitute bill also specifies that municipalities and harbor commissions are included among the entities authorized to institute proceedings to obtain title to a sunken or abandoned vessel, and then to remove or destroy the vessel, and recoup those costs from the vessel owner. The substitute bill provides a procedure for the owner of an abandoned vessel to reclaim possession prior to acquisition of title. A person who does not pay the cost of removal would be subject to a civil penalty of not more than \$1,000.

The substitute bill amends the law authorizing the New Jersey Motor Vehicle Commission to issue or renew a license to operate a vessel, or a vessel registration, to any person who abandons a vessel by making such issuance or renewal contingent upon notification from the appropriate municipality or harbor commission that all outstanding charges for the removal, destruction or storage of a sunken or abandoned vessel have been satisfied. The substitute bill increases the restoration fee to be paid to the New Jersey Motor Vehicle Commission from \$50 to \$100.

The substitute bill also allows a court to revoke or suspend the privilege of a person to operate a power vessel if the person has been found to have abandoned a vessel and has not satisfied all outstanding charges for vessel removal, storage and destruction costs.

Finally, the substitute bill authorizes a municipality to adopt an ordinance, or a harbor commission to adopt a resolution, requiring every owner or operator of a vessel that moors or docks in water, or grounds on land, under the control of the municipality or harbor or waterfront commission, to register with the official designated by the ordinance or resolution to have jurisdiction over the public land or waterway where the vessel is moored, grounded, or docked. The registration must include the length of time the vessel is intended to remain at the location along with the home address and telephone number of the owner or operator of the vessel, and a local address and telephone number where the owner or operator can be contacted.

The ordinance or resolution must designate one or more holding areas, public or private, at which vessels in violation of the registration requirement may be held. After a vessel has been moored, grounded, or docked without registration for a period of one week, an enforcement official acting for or on behalf of the municipality or harbor commission may affix a notice on the vessel advising that if the vessel is not removed by the date indicated on the notice, which shall be no less than seven calendar days following the date that the notice is affixed, then the vessel, including any trailer upon which a grounded vessel has been placed, will be removed to a holding area. An owner or operator who violates the provisions of an ordinance or resolution adopted pursuant to the bill will be subject to a civil penalty of not less than \$100 nor more than \$1,250.

As reported, Assembly Committee Substitute for Assembly Bill No. 1796 is identical to Senate Bill No. 1390 (2R), which was also reported by the committee on this date.